

JESSICA AMBER WILTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ELIZABETH M. STARKEY,

Plaintiff,

-vs-

FIRSTSOURCE ADVANTAGE, LLC a/k/a  
ACCOUNT SOLUTIONS GROUP, LLC d/b/a ASG,

Defendant.

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THOMAS F. MOLTZ,

Plaintiff,

-vs-

FIRSTSOURCE ADVANTAGE, LLC also  
known as ACCOUNT SOLUTIONS GROUP, LLC,

Defendant.

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DONNA RILEY,

Plaintiff,

-vs-

FIRSTSOURCE ADVANTAGE, LLC,

Defendant.

Sue Ann Simonin Court Reporting

421 Franklin Street  
Buffalo, New York 14202



(716) 882-8059  
Fax (716) 882-8099  
[sascr.com](http://sascr.com)

SUSAN MOORE,

Plaintiff,

-vs-

FIRSTSOURCE ADVANTAGE, LLC,

Defendant.

Examination Before Trial of  
JESSICA AMBER WILTON, taken pursuant to the Federal Rules of  
Civil Procedure, in the law offices of KENNETH HILLER, 6000  
North Bailey Avenue, Suite 1A, Amherst, New York, taken on  
January 27, 2009, commencing at 10:10 A.M., before CARLA M.  
GLINSKI, Notary Public.

		Page 2	Page 4
1	INDEX TO EXHIBITS		
2			
3			
4	Plaintiff's Exhibits For Identification		
5	1 Collection Services Agreement 4		1 APPEARANCES: KENNETH R. HILLER, ESQ.
6	2 Letter dated May 9, 2008 4		2 and FRANK J. BORGESSE, ESQ. (concluding at page 97)
7	3 Response to Plaintiff's First Set of Interrogatories 5		3 6000 North Bailey Avenue, Suite 1A,
8	4 five Pages of File Notes dated March 26, 2008 5		4 Amherst, New York 14226,
9			5 Appear for the Plaintiffs. COLUCCI & GALLAHER, P.C.,
10	5 Response to Plaintiff's First Request For Production of Documents 5		6 By TODD C. BUSHWAY, ESQ., 2000 Liberty Building,
11			7 Buffalo, New York 14202,
12	6 Response to Plaintiff's First Request For Production of Documents 5		8 Appear for the Defendant.
13			9
14	7 Response to Plaintiff's First Set of Interrogatories 5		10 (The following stipulations were entered 11 into by both parties.)
15	8 four Pages of File Notes dated March 19, 2008 5		12 It is hereby stipulated by and between counsel 13 for the respective parties that the oath of the 14 Referee is waived, that filing and certification 15 of the transcript are waived, and that all 16 objections, except as to the form of the 17 questions, are reserved until the time of trial.
16			18
17	9 Response to Plaintiff's First Request For Production of Documents 5		19 (Whereupon, a Collection Services Agreement 20 was then received and marked as Plaintiff's 21 Exhibit 1;
18			22 a Letter dated May 9, 2008 was then received and 23 marked as Plaintiff's Exhibit 2;
		Page 3	Page 5
1	13 Response to Plaintiff's First Set of Interrogatories 6		1 a Response to Plaintiff's First Set of 2 Interrogatories was then received and marked as 3 Plaintiff's Exhibit 3;
2	14 three Pages of File Notes dated May 7, 2008 6		4 five Pages of File Notes dated March 26, 2008 5 were then received and marked as Plaintiff's 6 Exhibit 4;
3	15 a Collection Communications Log 105		7 a Response to Plaintiff's First Request For 8 Production of Documents was then received and 9 marked as Plaintiff's Exhibit 5;
4			10 a Response to Plaintiff's First Request For 11 Production of Documents was then received and 12 marked as Plaintiff's Exhibit 6;
5			13 a Response to Plaintiff's First Set of 14 Interrogatories was then received and marked as 15 Plaintiff's Exhibit 7;
6			16 four Pages of File Notes dated March 19, 2008 17 were then received and marked as Plaintiff's 18 Exhibit 8;
7			19 a Response to Plaintiff's First Request For 20 Production of Documents was then received and 21 marked as Plaintiff's Exhibit 9;
8			22 three Pages of File Notes dated March 19, 2008 23 were then received and marked as Plaintiff's
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Page 6	Page 8
<p>1 Exhibit 10;</p> <p>2 a Response to Plaintiff's First Set of</p> <p>3 Interrogatories was then received and marked as</p> <p>4 Plaintiff's Exhibit 11;</p> <p>5 a Response to Plaintiff's First Request For</p> <p>6 Production of Documents was then received and</p> <p>7 marked as Plaintiff's Exhibit 12;</p> <p>8 a Response to Plaintiff's First Set of</p> <p>9 Interrogatories was then received and marked as</p> <p>10 Plaintiff's Exhibit 13; and</p> <p>11 three Pages of File Notes dated May 7, 2008 were</p> <p>12 then received and marked as Plaintiff's Exhibit</p> <p>13 14, for identification.)</p> <p>14</p> <p>15</p> <p>16 JESSICA AMBER WILTON,</p> <p>17 1382 East Park Road,</p> <p>18 Grand Island, New York 14072,</p> <p>19 after being duly called and sworn,</p> <p>20 testified as follows:</p> <p>21</p> <p>22 MR. BUSHWAY: Let's just put something on the record.</p> <p>23 What we've agreed to off the record is that there</p>	<p>1 ability to testify accurately at this deposition?</p> <p>2 A. No, I am not.</p> <p>3 Q. Okay. And what documents did you review in order</p> <p>4 to prepare for this deposition?</p> <p>5 A. The collection notes.</p> <p>6 Q. Any other documents?</p> <p>7 A. No.</p> <p>8 Q. Okay. And what is your -- well, where are you</p> <p>9 employed?</p> <p>10 A. I'm employed with Firstsource Advantage.</p> <p>11 Q. And what is your title there?</p> <p>12 A. Operations manager.</p> <p>13 Q. And what are your responsibilities as an</p> <p>14 operations manager?</p> <p>15 A. My responsibilities are to oversee the clients</p> <p>16 that we have -- well, that are assigned to me for</p> <p>17 revenue and work standards, that sort of thing.</p> <p>18 To abide by the contracts that we have with them.</p> <p>19 Q. And how long have you been employed as the</p> <p>20 operations manager?</p> <p>21 A. Two years. Almost two years.</p> <p>22 Q. And what was your employment immediately prior to</p> <p>23 that?</p>
Page 7	Page 9
<p>1 are four pending lawsuits. Mr. Hiller and I have</p> <p>2 agreed that we're going to put all four captions</p> <p>3 on it. He will to the best of his ability to</p> <p>4 keep the general questions as one block and</p> <p>5 identify somehow in the record when we're going</p> <p>6 into testimony specific to each of the Plaintiffs</p> <p>7 so that we can keep the transcript --</p> <p>8 MR. HILLER: Somehow bifurcated.</p> <p>9 MR. BUSHWAY: And eliminate the need to do the</p> <p>10 testimony times four.</p> <p>11</p> <p>12 EXAMINATION BY MR. HILLER:</p> <p>13</p> <p>14 Q. All right. Ms. Wilton, my name is Kenneth</p> <p>15 Hiller. I represent the four Plaintiffs in these</p> <p>16 actions. I'm going to ask you a number of</p> <p>17 questions. I would ask that you answer all the</p> <p>18 questions verbally. And if you have any</p> <p>19 questions -- if you don't understand a question,</p> <p>20 feel free to ask me to rephrase it.</p> <p>21 A. Okay.</p> <p>22 Q. Are you suffering from any illnesses or on any</p> <p>23 medication this morning that would impair your</p>	<p>1 A. I was a supervisor.</p> <p>2 Q. At Firstsource?</p> <p>3 A. Correct.</p> <p>4 Q. How many years have you worked at Firstsource?</p> <p>5 A. Three.</p> <p>6 Q. And where did you work before Firstsource?</p> <p>7 A. Capital Management.</p> <p>8 Q. And how long did you work there?</p> <p>9 A. Just a few months.</p> <p>10 Q. And what was your position there?</p> <p>11 A. Supervisor.</p> <p>12 Q. Supervisor of whom?</p> <p>13 A. Capital One.</p> <p>14 Q. Oh.</p> <p>15 A. The client is what I supervised.</p> <p>16 Q. You supervised the collection of accounts -- of</p> <p>17 Capital One accounts by Capital Management?</p> <p>18 A. Correct.</p> <p>19 Q. And prior to being the operations manager at</p> <p>20 Firstsource, for the year prior to that, what was</p> <p>21 your position?</p> <p>22 A. The year prior to that. Wait. Repeat the</p> <p>23 question.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. You said that you had worked two years as an          2 operations manager and that you worked there for          3 three years. What was the other position that          4 you held?</p> <p>5 A. Supervisor.</p> <p>6 Q. Of any particular account?</p> <p>7 A. Washington Mutual.</p> <p>8 Q. And what does a supervisor of an account do?</p> <p>9 A. They coach and develop the team that collects on          10 that portfolio.</p> <p>11 Q. Okay. And tell me about Firstsource a little          12 bit. Do they do any business activities other          13 than debt collection?</p> <p>14 A. Not that I am aware of. Well, globally we do. I          15 don't want to misspeak.</p> <p>16 Q. Okay.</p> <p>17 A. We do telecom BFSI, and we do health care          18 globally.</p> <p>19 Q. What is telecom BFSI?</p> <p>20 A. BFSI is banking and finances which is where --          21 what I do that falls into that category. As far          22 as what they do with telecom and health care, I          23 know there is adjudication involved, but the</p>	<p style="text-align: right;">Page 12</p> <p>1 years ago.</p> <p>2 A. Yes.</p> <p>3 Q. And does Account Solutions Group still maintain a          4 separate identity? Do they still exist at all?</p> <p>5 A. No.</p> <p>6 MR. BUSHWAY: Well, let me -- I don't know if she          7 knows the corporate -- whether they exist as a          8 corporate filing somewhere, but she can, in terms          9 of the practical --</p> <p>10 BY MR. HILLER:</p> <p>11 Q. Right. In other words, are any letters issued by          12 Firstsource under the title Account Solutions          13 Group?</p> <p>14 A. No.</p> <p>15 Q. Do you know when Firstsource stopped using a          16 title -- stopped using the name of Account          17 Solutions Group?</p> <p>18 A. I can't remember any specific date, but -- I do          19 remember the changeover, but I couldn't tell you          20 what day it was or what month it was.</p> <p>21 Q. Well, after you began were they still using the          22 name Account Solutions Group --</p> <p>23 A. Yes, they were.</p>
<p style="text-align: right;">Page 11</p> <p>1 particulars I don't know.</p> <p>2 Q. Does it involve the collection of debts?</p> <p>3 A. Not that I'm aware of, no.</p> <p>4 Q. Okay. And do you know how long Firstsource has          5 been operated as a company?</p> <p>6 A. Well, we were previously Account Solutions Group.          7 We were acquired by Firstsource Advantage which          8 was an India-based operation. So prior to          9 Firstsource's acquisition, we were strictly just          10 collections here in Amherst.</p> <p>11 Q. All right. So when you began your employment          12 with Firstsource, it was then known as Account          13 Solutions Group?</p> <p>14 A. Correct.</p> <p>15 Q. And when did Firstsource purchase Account          16 Solutions Group?</p> <p>17 A. I'm not sure what the year and date was. They          18 had already made the acquisition when I was          19 employed, but the people that had previously          20 owned it had not parted from the company yet, so          21 I'm not really sure, you know, what the whole --</p> <p>22 Q. But it was more than three years ago then?</p> <p>23 Because you started with Account Solutions three</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. -- in some of their activities?</p> <p>2 A. Yes.</p> <p>3 Q. So as operations manager, are you responsible to          4 supervise a number of accounts?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is Time Warner Communications one of those          7 accounts?</p> <p>8 A. Not presently, no.</p> <p>9 Q. And who do you report to? Who is your          10 supervisor?</p> <p>11 A. My supervisor is Michelle Lewis.</p> <p>12 Q. What's her position?</p> <p>13 A. She is a deputy general manager.</p> <p>14 Q. And does Firstsource have centers where          15 collectors collect debts?</p> <p>16 A. Correct.</p> <p>17 Q. And do you know how many call centers they have?</p> <p>18 A. I'm not certain.</p> <p>19 Q. Do they have a call center here in Western New          20 York?</p> <p>21 A. Yes, in Amherst.</p> <p>22 Q. Do you know how many debt collectors actually          23 doing collection calls are employed by</p>

Page 14	Page 16
<p>1 Firstsource?</p> <p>2 MR. BUSHWAY: Currently or back in --</p> <p>3 MR. HILLER: Currently.</p> <p>4 THE WITNESS: Current? I don't have an exact figure.</p> <p>5 BY MR. HILLER:</p> <p>6 Q. Do you have an approximate number?</p> <p>7 A. I would say in Amherst alone, probably around</p> <p>8 four hundred. Three hundred to four hundred</p> <p>9 people.</p> <p>10 Q. Were all of the accounts on the four cases we're</p> <p>11 involved in here today collected by or were</p> <p>12 attempts to collect those debts done by debt</p> <p>13 collectors located here in Western New York?</p> <p>14 A. They were not -- the attempts were not made by</p> <p>15 collectors themselves, no.</p> <p>16 Q. Well, they were made -- there was attempts made</p> <p>17 by collectors, but not those -- by automation?</p> <p>18 MR. BUSHWAY: Are you asking whether the</p> <p>19 debt-collection activities in these four cases</p> <p>20 came out of the Amherst call center?</p> <p>21 MR. HILLER: Yes.</p> <p>22 THE WITNESS: Yes, they did.</p> <p>23 BY MR. HILLER:</p>	<p>1 Q. Theresa -- what's the last name?</p> <p>2 A. M-I-L-B-R-A-T-H.</p> <p>3 Q. And what's her position?</p> <p>4 A. She is the director of client relations.</p> <p>5 Q. Can you tell from account notes on a particular</p> <p>6 debtor whether the account originated with</p> <p>7 Account Solutions Group or Firstsource?</p> <p>8 A. I don't believe that that's on the notes, no.</p> <p>9 Q. Okay. Was Account Solutions Group doing Adelphia</p> <p>10 Cable and Time Warner collections before their</p> <p>11 purchase -- before they were purchased by</p> <p>12 Firstsource?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. All right.</p> <p>15 A. I'm almost certain that we acquired that contract</p> <p>16 post sale.</p> <p>17 Q. I want to show you what's been marked as Exhibit</p> <p>18 1.</p> <p>19 A. Okay.</p> <p>20 Q. Can you identify that?</p> <p>21 A. This looks just like a standard contract.</p> <p>22 Q. And who are the parties to the contract?</p> <p>23 A. Time Warner Cable and Account Solutions Group.</p>
<p>Page 15</p> <p>1 Q. All right. When Firstsource purchased Account</p> <p>2 Solutions Group, did they take the employees of</p> <p>3 Account Solutions Group with that purchase?</p> <p>4 A. Correct.</p> <p>5 Q. And did Account -- does Firstsource use a</p> <p>6 software to maintain and monitor their collection</p> <p>7 accounts?</p> <p>8 A. Yes.</p> <p>9 Q. What is that software?</p> <p>10 A. Columbia Ultimate Business Systems.</p> <p>11 Q. I'll refer to that as the CUBS system.</p> <p>12 A. CUBS, correct. Yeah.</p> <p>13 Q. Did Account Solutions Group use the CUBS system?</p> <p>14 A. Yes.</p> <p>15 Q. The very same software?</p> <p>16 A. Yes.</p> <p>17 Q. So when Firstsource acquired Account Solutions</p> <p>18 Group, can you explain to me how the existing</p> <p>19 accounts were transferred to Firstsource in their</p> <p>20 collection software?</p> <p>21 A. I don't know the answer to that question.</p> <p>22 Q. Who would know the answer to that question?</p> <p>23 A. Theresa Milbrath.</p>	<p>Page 17</p> <p>1 Q. So would that indicate to you that the contract</p> <p>2 between Time Warner for -- with Time Warner</p> <p>3 originated with Account Solutions Group?</p> <p>4 A. When we were called Account Solutions Group, yes.</p> <p>5 MR. BUSHWAY: Object to the form.</p> <p>6 BY MR. HILLER:</p> <p>7 Q. All right. And is that contract kept by</p> <p>8 Firstsource in their ordinary course of business</p> <p>9 operations?</p> <p>10 A. Yes.</p> <p>11 Q. And is that a true copy of the contract?</p> <p>12 A. I don't know.</p> <p>13 Q. Okay.</p> <p>14 A. I don't keep the contracts.</p> <p>15 Q. All right. Can I just have that back for a</p> <p>16 second.</p> <p>17 MR. BUSHWAY: Do you have a second copy? You know,</p> <p>18 instead of handing it back and forth, if you want</p> <p>19 to --</p> <p>20 BY MR. HILLER:</p> <p>21 Q. Let me see. I'd like you to read, if you could,</p> <p>22 paragraph fourteen of that agreement.</p> <p>23 A. Certainly. Neither party may transfer or assign</p>

	Page 18		Page 20
1	all or a portion of its rights, obligations and	1	A. I don't know exactly.
2	duties under this agreement without the written	2	Q. Who would know that?
3	consent of the other party.	3	A. Theresa Milbrath.
4	Q. Okay. So that -- would you agree that that is --	4	Q. Do you know if they are provided with a telephone
5	that that evidences that the parties -- well,	5	number?
6	could you please explain to me what you interpret	6	A. Yes.
7	that provision to mean.	7	Q. Are they provided with a name and Social Security
8	MR. BUSHWAY: Object to the form. I'm not going to	8	number?
9	let her interpret the contract. It's a legal	9	A. If available, yes.
10	document. She has testified she didn't -- you	10	Q. Are they provided with an address?
11	didn't ask her if she drafted it, but it's a	11	A. Yes.
12	contract. She's not going to interpret it for	12	Q. Do you know if the -- if there is any information
13	you.	13	provided by Time Warner or previously Adelphia as
14	BY MR. HILLER:	14	to how they obtained the telephone number?
15	Q. Okay. Well, you can answer the question.	15	A. No.
16	A. Okay. I would assume that that meant that we are	16	Q. They don't tell you that?
17	not authorized to give any information that we	17	A. No.
18	receive out to another party.	18	Q. So Firstsource would not know whether or not the
19	Q. Okay. Thank you.	19	telephone number was provided by the debtor in
20	A. Certainly.	20	connection with their application for services or
21	Q. All right. Now, the company Firstsource uses the	21	sometime thereafter?
22	CUBS software system, correct?	22	A. I can't answer for anybody else in the
23	A. Yes.	23	organization if they would know, whether sales
	Page 19		Page 21
1	Q. Is there a version of that software that's used,	1	would have information on that. I as the
2	do you know?	2	operations manager would not.
3	A. There is a version. I'm not -- I don't know	3	Q. Okay. But you're not aware of that -- as
4	exactly what version it is. It gets upgraded I	4	corporate representative you're not familiar or
5	know.	5	you don't -- let me start over on that.
6	Q. Would Theresa Milbrath know that?	6	First of all -- I probably should have done
7	A. She may. If she doesn't, it would be Christopher	7	this earlier -- you are appearing today as the
8	Habschied that would.	8	corporate representative of Firstsource, is that
9	Q. Christopher -- could you spell that?	9	correct?
10	A. It's H-A-B-S-C-H-I-E-D.	10	A. Correct.
11	Q. And what's his position with Firstsource?	11	Q. And your answers to questions today are made
12	A. He is the CUBS programmer.	12	pursuant to the deposition notice that we served
13	Q. Does Firstsource possess a manual or guide	13	upon your attorney for this deposition?
14	provided to them by CUBS as to how to operate and	14	A. Yes.
15	use the CUBS software?	15	MR. BUSHWAY: I don't know if she's ever seen the
16	A. I don't know.	16	notice, but --
17	Q. Who would know that?	17	BY MR. HILLER:
18	A. Christopher Habschied.	18	Q. All right. So all your prior answers and future
19	Q. When Firstsource, or ASG previously, receives an	19	answers, when you answer, you're answering on
20	account from Time Warner, can you tell me what	20	behalf of the corporation, is that correct?
21	information is provided to them?	21	A. Correct.
22	A. On initial placement?	22	Q. Okay. As corporate representative, are you
23	Q. Yes.	23	testifying that you're not familiar with any

Page 22	Page 24
1 information that is provided to Firstsource 2 concerning how Time Warner or Adelphia obtained 3 the phone number from the debtors? 4 A. No. 5 Q. How do you open a collection account? 6 A. We actually enter in our initials. We are 7 assigned CUBS -- what's called CUBS initials. We 8 go into a screen that says collector. We hit 9 that letter. It's numeric. Or, it's an 10 alphanumeric process. You open it up with a 11 letter, with more letters, and then you hit a 12 period and an enter, and it automatically brings 13 you to your very first account that is in your 14 queue. 15 MR. BUSHWAY: Were you asking as a collector 16 individually or when they got the account, in 17 this case from Time Warner, how do they take the 18 data and -- 19 BY MR. HILLER: 20 Q. I'll clarify. When Time Warner assigns an 21 account to Firstsource to collect, can you tell 22 me what the first thing is that Firstsource does 23 with the information that they're provided?	1 Q. All right. And do you know what steps are 2 involved in opening up an account? 3 A. From the time it enters? 4 Q. Yes. 5 A. No. 6 Q. After an account is opened, can you tell me what 7 the first thing is that Firstsource does with 8 that account? 9 A. Once they're opened, they go into what we call a 10 desk, a new business desk. The operations 11 manager at that point is responsible for 12 distributing that business either to collector 13 files or maybe what we call an open desk. Which 14 would mean that it's not assigned to an 15 individual collector but a queue within CUBS. 16 Q. And as operations manager, would you be doing 17 those activities? 18 A. Yes. 19 Q. So you would obtain or an operations manager 20 would obtain the account after it was already 21 opened? 22 A. Correct. 23 Q. And what information is made available to you at
1 A. That again would be Theresa Milbrath. She would 2 be able to tell you that. 3 Q. All right. Well, in some fashion is the 4 information uploaded -- 5 A. Yes. 6 Q. -- into the Firstsource computer? Is an account 7 opened? 8 A. Yes. 9 Q. And do you have a name for those accounts or just 10 accounts? 11 A. Just accounts. 12 Q. Okay. And a number is assigned to the account? 13 A. Yes. 14 Q. Okay. And who assigns the numbers to the 15 accounts? 16 A. That I do not know. 17 Q. Some person though at Firstsource assigns numbers 18 to the accounts? 19 A. I'm not sure if it would be a person or if it's 20 the computer system just assigning it in order. 21 I don't know. 22 Q. And who would know that? 23 A. Theresa Milbrath.	1 the time that you -- that an operations manager 2 such as yourself becomes involved in an account? 3 A. When I'm looking at a brand-new account, 4 typically I see the name, the address, the phone 5 number, the Social Security number, the amount of 6 the debt, when it was placed with us, when it was 7 incurred. Sometimes we'll get credit reports on 8 accounts that we can go in and view depending on 9 balance. 10 Q. And is there any collection activity done at all 11 prior to the operations manager reviewing the 12 account for the first time? 13 A. It depends on when the operations manager 14 actually moves it from queue to queue. We do 15 send out a standard dunning notice within 16 twenty-four hours of placement. 17 Q. So that's basically automated, correct? 18 A. Correct. 19 Q. And would a credit report already be on file 20 possibly by the time an operations manager looks 21 at the account? 22 A. Not typically, but it is possible. Again, it 23 depends on when those accounts are moved. It's

<p>1 all in timing.</p> <p>2 Q. And how would it be determined whether -- how</p> <p>3 would it be determined that a credit report</p> <p>4 should be obtained?</p> <p>5 A. We do it by balance on account, so it really</p> <p>6 depends on the actual, the actual client that</p> <p>7 we're checking for. Typically we don't order</p> <p>8 credit reports on balances under a thousand</p> <p>9 dollars, but that is not written in stone.</p> <p>10 Q. Okay. Other than obtaining the credit report and</p> <p>11 sending out a dunning notice, is there any other</p> <p>12 collection activity performed on the account</p> <p>13 prior to the operations manager being involved in</p> <p>14 the account?</p> <p>15 A. Not that I know of, no.</p> <p>16 Q. And your testimony is that there's two things</p> <p>17 that the operations manager might do. They might</p> <p>18 distribute to a collector file or to an open</p> <p>19 desk?</p> <p>20 A. Correct.</p> <p>21 Q. So if it's distributed to a collection file, can</p> <p>22 you tell me what the operations manager would do</p> <p>23 at that point?</p>	<p>Page 26</p> <p>1 Q. All right. And what's that queue name?</p> <p>2 A. Which one?</p> <p>3 Q. The open desk.</p> <p>4 A. It would depend on the client. We name our own.</p> <p>5 Q. And would that be -- the open desk, would that be</p> <p>6 where a collector doesn't have anything left in</p> <p>7 their collection files and they're looking for</p> <p>8 some work so they grab it from the desk queue?</p> <p>9 A. Sometimes.</p> <p>10 Q. So after an account is opened and distributed to</p> <p>11 a debt collector, what next ensues on that</p> <p>12 account?</p> <p>13 A. Collection activity.</p> <p>14 Q. All right. And what sort of collection</p> <p>15 activities?</p> <p>16 A. Placing phone calls.</p> <p>17 Q. And these would be what type of phone calls?</p> <p>18 A. To collect upon the debt.</p> <p>19 Q. They would personally pick up the phone or hit a</p> <p>20 button to get a -- to open a line?</p> <p>21 A. Yes.</p> <p>22 Q. And call the person, the debtor, personally?</p> <p>23 A. That is correct.</p>
<p>1 A. What we would do, we have what's called a</p> <p>2 distribution list that has all of the CUBS</p> <p>3 initials of the desks that it would flow to. And</p> <p>4 we actually have a module within CUBS where we</p> <p>5 take the desk that they're currently in and it</p> <p>6 automatically just randomly disperses them out</p> <p>7 based on criteria that we're implementing into</p> <p>8 the system.</p> <p>9 Q. And it's in a queue?</p> <p>10 A. Yes.</p> <p>11 Q. So a collector is working at his desk working on</p> <p>12 a file. When he's done with that, the next one</p> <p>13 comes to his attention?</p> <p>14 A. Comes to his attention.</p> <p>15 Q. And how does that differ from the open-desk</p> <p>16 process?</p> <p>17 A. The open-desk process, it doesn't have ownership</p> <p>18 to a collector. A collector file. It's in a</p> <p>19 desk where other collectors can go into it and</p> <p>20 obtain the account to view, but they don't have</p> <p>21 actual ownership or responsibilities to it.</p> <p>22 Q. So that is a different queue?</p> <p>23 A. Yeah. Every queue has its own name.</p>	<p>Page 27</p> <p>1 Q. And speak to them live over the phone?</p> <p>2 A. Correct.</p> <p>3 Q. Are automated calls made to the debtors?</p> <p>4 A. Yes.</p> <p>5 Q. Does the debt collector originate those calls?</p> <p>6 A. No.</p> <p>7 Q. How are those calls made?</p> <p>8 A. Well, we have two automated devices that we use.</p> <p>9 One is what's called a Blaster which goes through</p> <p>10 our dialer process. The other one is called</p> <p>11 Soundbite which is a third-party vendor that we</p> <p>12 have a contract with that we load into a queue</p> <p>13 and they get dispersed. Now, it is an outbound</p> <p>14 call, and that call can route back to an actual</p> <p>15 collector with a live contact.</p> <p>16 Q. So Soundbite makes a call, and if somebody, if</p> <p>17 somebody answers the call, it routes that call to</p> <p>18 a collector who's available?</p> <p>19 A. Correct.</p> <p>20 Q. When Soundbite makes a call and if nobody answers</p> <p>21 the phone, is an automated message left?</p> <p>22 A. It can be.</p> <p>23 Q. It can be.</p>

Page 30	Page 32
1 A. We have the option as operations managers to say 2 whether we want a message delivered or not. 3 Q. And in a collection account, is there a way to 4 determine whether a call left a message or not? 5 A. Yes. Soundbite automatically documents that in 6 the note line upon -- it will, it will show up 7 the next day though because it happens with a 8 day-end process when CUBS updates all of its 9 files. 10 Q. If a person answered -- if a debtor answers a 11 telephone call made by Soundbite, do they -- are 12 they -- do they receive an automated message? 13 A. Yes. There is a -- what's called a whisper, and 14 it will, it will tell the collector what 15 reference number they need to pull up within our 16 system. 17 Q. Well, but I'm talking about the debtor. When the 18 debtor picks up the phone on a call made by Sound 19 Blaster, do they receive an automated message of 20 some sort? 21 A. Yes. 22 MR. BUSHWAY: Soundbite. You said Sound Blaster. 23 You combined the two.	1 A. Correct. 2 Q. And every call, whether answered by somebody or 3 not, it would leave that automated message, 4 correct? 5 A. Correct. 6 Q. And all of the calls made by Blaster or Soundbite 7 would be reflected in a log that is kept by 8 Firstsource, is that correct? 9 A. Correct. 10 Q. Now, when a call is made -- well, how is it 11 determined how many calls are made by Soundbite 12 or Blaster? 13 A. The operations manager determines that based on 14 the criteria that we want to implement. So we 15 may segment our business by a -- what's called a 16 recovery score. And the highest propensity to 17 pay might be what we want to target. So it 18 really depends on our strategy and what we want 19 to target. And we actually query for those files 20 and we tell CUBS this is what we want. CUBS then 21 searches through all of the debtor files to find 22 that information, those accounts that pertain to 23 that query, and we can load it through the
Page 31	Page 33
1 BY MR. HILLER: 2 Q. I'm sorry. So Soundbite -- something along the 3 lines of please hold for a representative? 4 A. Yes. It will ask them are you so and so. If you 5 are so and so, please press one. If this is a 6 wrong number, please press three. I'm not 7 certain of the exact verbiage, but, yes, this is 8 an automated -- yes. 9 Q. So the person would have to press one to be put 10 through to a debt collector? 11 A. Yes. 12 Q. What happens if the person presses the button 13 saying they're not the correct person? 14 A. Then the call is put to the collector and the 15 collector says is this a wrong number for so and 16 so, and they say yes; we apologize. 17 Q. How does the Soundbite program differ from the 18 Blaster program? 19 A. The Blaster program does not deliver those. It 20 doesn't search for a live party and deliver that 21 to a collector. 22 Q. It just leaves an automated message saying to 23 call us back?	1 Soundbite system through a temp file in Excel. 2 Q. So you have a class of files, perhaps very 3 collectable files? 4 A. Um-hum. 5 Q. And you might program CUBS to say call them once 6 per day? 7 A. Correct. 8 Q. Or you might have them call once a week if it's 9 less collectable, correct? 10 A. Correct. 11 Q. And in the account log, when -- if there's a 12 designation in the account log indicating that 13 Soundbite or Blaster called, is there -- is that 14 designated for each individual call? 15 A. Yes. 16 Q. So, in other words, is it possible that if 17 there's an entry in a call log that a Soundbite 18 call was made that several -- multiple calls were 19 made? 20 A. It's possible, yes. I'm not -- I will say I'm 21 not sure if, if it represents that in the note 22 lines when you're reading an account. If it will 23 tell you that it attempted it several times or if

Page 34	Page 36
<p>1 it only documents it after the last attempt, I'm 2 not sure.</p> <p>3 Q. So a designation of Soundbite in an account log 4 could mean that one call was made or that 5 multiple calls were made?</p> <p>6 A. It could be.</p> <p>7 Q. And is there a way to learn whether or not there 8 was more than one call made?</p> <p>9 A. Yes.</p> <p>10 Q. And how would that be learned?</p> <p>11 A. Soundbite itself has a log that we can go into 12 and --</p> <p>13 Q. And so for each individual collection account, 14 there is a separate Soundbite log?</p> <p>15 A. Correct.</p> <p>16 Q. And is there also a separate Blaster log?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. But if you went into the Soundbite log, 19 you could determine exactly how many calls were 20 made by Soundbite?</p> <p>21 A. Correct.</p> <p>22 Q. And it's possible that that's also true for the 23 Blaster program, but you're not sure?</p>	<p>1 Q. Is there a manual that they -- that the debt 2 collectors are provided containing information on 3 the Fair Debt Collection Practices Act and 4 Firstsource's policies and procedures to comply 5 with that law?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what the name of that manual is?</p> <p>8 A. No.</p> <p>9 Q. Jennifer Ciganko would know?</p> <p>10 A. Yes.</p> <p>11 Q. But there is a manual?</p> <p>12 A. I don't know if it's part of the training manual 13 that she provides that she has done herself or if 14 there is an actual FDCPA manual. I'm not sure.</p> <p>15 Q. Do you know if collectors are provided with a 16 copy of that manual?</p> <p>17 A. Yes.</p> <p>18 Q. Who is in charge of compliance? I assume that 19 there's -- is there a compliance manager of some 20 type at Firstsource?</p> <p>21 A. Yes, there is.</p> <p>22 Q. And who is that?</p> <p>23 A. Jeffrey Markley, M-A-R-K-L-E-Y.</p>
Page 35	Page 37
<p>1 A. Possibly.</p> <p>2 Q. How does Firstsource train its collectors?</p> <p>3 A. They go through a two-week training program 4 through our training department.</p> <p>5 Q. And what sort of training is provided?</p> <p>6 A. They go through our policies regarding health 7 care, training on the CUBS system, human 8 resources. That sort of thing. Exactly what the 9 content is I would have to --</p> <p>10 Q. Who would know that?</p> <p>11 A. Jennifer Ciganko. I'll spell that for you.</p> <p>12 Q. Yes.</p> <p>13 A. It's C-I-G-A-N-K-O.</p> <p>14 Q. And what is her title?</p> <p>15 A. She is the corporate trainer for North American 16 operations.</p> <p>17 Q. Do you know if the debt collectors are trained in 18 the -- to understand and learn the Fair Debt 19 Collection Practices Act?</p> <p>20 A. Yes.</p> <p>21 Q. And do you know what sort of training is provided 22 in that regard?</p> <p>23 A. Specifically, no.</p>	<p>1 Q. And what are his responsibilities?</p> <p>2 A. He oversees what we call process excellence, so 3 he, he is in charge of our quality assurance 4 department, he's in charge of -- I do believe 5 there's some data analytics that he's involved 6 with for that department. He's involved with -- 7 I'm really not sure what her title is, but the -- 8 our licensing. Things like that.</p> <p>9 Q. So is he in charge of reviewing collectors' 10 performance in terms of their compliance with the 11 FDCPA in their duties?</p> <p>12 A. Yes.</p> <p>13 Q. When I say FDCPA, I mean Fair Debt Collection 14 Practices Act.</p> <p>15 A. Correct. He specifically may not do that 16 himself. He oversees the person who does.</p> <p>17 Q. And do you know what Firstsource does in their 18 attempts to insure compliance with the FDCPA?</p> <p>19 A. We test annually.</p> <p>20 Q. What happens if a -- what is the -- do you know 21 what the required score on a test is for a debt 22 collector to continue to collect with your company?</p>

Page 38	Page 40
<p>1 A. Ninety percent.</p> <p>2 Q. And what happens if a debt collector scores less</p> <p>3 than ninety percent?</p> <p>4 A. They must immediately be taken off the phone and</p> <p>5 retested.</p> <p>6 Q. Until they subsequently, hopefully, pass ninety</p> <p>7 percent in subsequent tests?</p> <p>8 A. If they failed the second time, we reserve the</p> <p>9 right to terminate their employment with</p> <p>10 Firstsource.</p> <p>11 Q. And do they take that test prior to starting on</p> <p>12 the phones?</p> <p>13 A. Yes.</p> <p>14 Q. If a debtor that Firstsource is attempting to</p> <p>15 collect from informs Firstsource that they do not</p> <p>16 wish to receive any further phone calls, would</p> <p>17 subsequent collection calls to that very same</p> <p>18 debtor violate Firstsource's policies and</p> <p>19 procedures that its collectors are trained in and</p> <p>20 directed to follow?</p> <p>21 MR. BUSHWAY: Object to the form. You can answer.</p> <p>22 THE WITNESS: It depends on the client. Some of our</p> <p>23 clients will say that we have to do that on a</p>	<p>1 a debtor after that debtor has requested that</p> <p>2 they not call them any further complies with the</p> <p>3 FDCPA?</p> <p>4 A. I believe so.</p> <p>5 Q. Okay.</p> <p>6 MR. BUSHWAY: Meaning verbal request?</p> <p>7 MR. HILLER: Right, verbal request.</p> <p>8 THE WITNESS: Yeah.</p> <p>9 BY MR. HILLER:</p> <p>10 Q. I want to go back -- shift gears a little bit and</p> <p>11 go back to the CUBS system. In the process of</p> <p>12 the discovery of this lawsuit, we have been</p> <p>13 provided with account logs, and we'll go over</p> <p>14 those soon. Are there other screens that are</p> <p>15 available for review in the CUBS system relative</p> <p>16 to an account?</p> <p>17 A. To my knowledge, the only thing that we have are</p> <p>18 the note lines. If there is another way, I am</p> <p>19 not aware of what that is.</p> <p>20 Q. Do debt collectors only work on the account log</p> <p>21 screen when they're working an account?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. What are the procedures employed by</p>
<p>1 verbal request. Other clients say that it has to</p> <p>2 be written. So if we want a cease-and-desist,</p> <p>3 some of our clients say that has to be in written</p> <p>4 form.</p> <p>5 BY MR. HILLER:</p> <p>6 Q. All right. So it's not a policy that Firstsource</p> <p>7 has; it's a policy that its clients provide to</p> <p>8 them?</p> <p>9 A. Correct.</p> <p>10 Q. And if the client informs Firstsource that they</p> <p>11 should not honor a request from a debtor to cease</p> <p>12 and desist for their telephone calls verbally,</p> <p>13 Firstsource will comply with that request?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Does Firstsource believe that this -- that</p> <p>16 calling a person after they have verbally</p> <p>17 informed Firstsource that they do not wish to</p> <p>18 receive any further phone calls complies with the</p> <p>19 FDCPA?</p> <p>20 MR. BUSHWAY: Object to the form. You can answer.</p> <p>21 THE WITNESS: Okay. Can you repeat the question.</p> <p>22 BY MR. HILLER:</p> <p>23 Q. Does Firstsource believe that continuing to call</p>	<p>1 Firstsource to insure that they are contacting</p> <p>2 the appropriate person when attempting to collect</p> <p>3 a debt?</p> <p>4 A. Well, if we are provided with a phone number from</p> <p>5 the client, that's, that's what we use.</p> <p>6 Q. And if the collector calls that number and the</p> <p>7 person says they have called the wrong number or</p> <p>8 they are not the debtor, what is Firstsource's</p> <p>9 policy and procedure as to how to deal with that</p> <p>10 situation?</p> <p>11 A. First what we'll do is what we call probing. We</p> <p>12 will ask that person if they know who the person</p> <p>13 is that we're asking for, and if they do, we will</p> <p>14 ask them if they have any idea of how we would be</p> <p>15 able to contact that person. If they do not,</p> <p>16 then we say we apologize for the inconvenience</p> <p>17 and we'll remove your number.</p> <p>18 Q. Does Firstsource require any verification by that</p> <p>19 individual that they are not, in fact, the</p> <p>20 debtor?</p> <p>21 A. If -- it depends. If we're calling somebody that</p> <p>22 shares the same name, we may ask them to identify</p> <p>23 the last four digits of their Social Security,</p>

Starkey, et al vs. Firstsource

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	Page 42	Page 44
<p>1 identify their mailing address to verify if we 2 are, in fact, speaking to the right party.</p> <p>3 Q. Okay.</p> <p>4 A. But if it doesn't share the same name, then 5 obviously --</p> <p>6 Q. When you say the same name, you mean the first 7 name and last name?</p> <p>8 A. Correct.</p> <p>9 Q. And would the procedures for dealing with calls 10 that the individual answers the phone -- let me 11 start over with that. Are those procedures that 12 you just outlined contained in the policy manual 13 that you referred to previously?</p> <p>14 A. I don't know.</p> <p>15 Q. Are they contained in writing anywhere?</p> <p>16 A. I'm not sure.</p> <p>17 Q. Do you know -- can you describe for me how 18 Firstsource's telephone service is provided to 19 them?</p> <p>20 A. I don't know.</p> <p>21 Q. Do you know who -- what company provides 22 telephone service to Firstsource?</p> <p>23 A. I believe it's Sprint, but I'm not positive.</p>	<p>1 use anything other than the company phone to do 2 your work.</p> <p>3 MR. HILLER: Correct.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. HILLER:</p> <p>6 Q. Does Firstsource have a policy as to whether debt 7 collectors can use personal phones such as cell 8 phones to make collection calls?</p> <p>9 A. Absolutely not.</p> <p>10 Q. They're not permitted to?</p> <p>11 A. No, they are not.</p> <p>12 Q. Are you aware of any instances where debt 13 collectors have done that?</p> <p>14 A. No, I am not.</p> <p>15 Q. All right. I think we're going to move into the 16 specific accounts at this point.</p> <p>17 MR. BUSHWAY: Okay. Can we mark on the record start 18 a new page by whichever one you're up to. I'm 19 saying, you know, whatever one, just so we can 20 start a new page and say whatever.</p> <p>21 BY MR. HILLER:</p> <p>22 Q. We'll start with the Susan Moore file.</p> <p>23 A. Okay.</p>	
<p>1 Q. Who would know that?</p> <p>2 A. Lisa Stuart, S-T-U-A-R-T.</p> <p>3 Q. And what is her position?</p> <p>4 A. She is the manager of telecom.</p> <p>5 Q. Do you know if Firstsource is billed for every 6 call that they make?</p> <p>7 A. I'm not sure.</p> <p>8 Q. Are debt collectors permitted to make calls on 9 telephones other than those provided by 10 Firstsource?</p> <p>11 A. Yes. Well, depending on the -- Firstsource or 12 the client?</p> <p>13 Q. Either.</p> <p>14 A. We have -- I don't know if this would apply. We 15 have what we call skip tracing, so if we have an 16 account in front of us that doesn't have a phone 17 number on it or we've been told that the number 18 that we are calling is wrong or disconnected, 19 then we have, we have certain websites that we 20 can go to to try to find location information and call those numbers.</p> <p>22 MR. BUSHWAY: I think you were asking if you're 23 employed as a collector at Firstsource, can you</p>	<p>1 Q. And I want to show you what's been marked as 2 Plaintiff's Exhibit 3. Can you identify that 3 document?</p> <p>4 A. I don't know what this document is.</p> <p>5 Q. Okay. You can hold on to that for a minute.</p> <p>6 A. Okay.</p> <p>7 Q. That is -- that document was provided to us from 8 -- by your counsel in response to certain 9 questions we had of Firstsource.</p> <p>10 A. Okay.</p> <p>11 Q. And if you go to the verification page which is 12 the second-last page of this exhibit, it's 13 verified by counsel for Firstsource, Mr. Bushway, 14 who is sitting right next to you.</p> <p>15 A. Okay.</p> <p>16 Q. And in these interrogatories, we asked 17 Firstsource to identify all witnesses whom they 18 intend to call to trial -- call at the trial in 19 this matter, and it's interrogatory seventeen. 20 Could you read the response to interrogatory 21 seventeen?</p> <p>22 A. In addition to Jessica Wilton and the individuals 23 identified in response to interrogatory three,</p>	Page 45

Page 46	Page 48
<p>1 Defendants may call Mr. Ed Rogers from Time      2 Warner Cable to testify as to the manner and      3 method of transferring the account data to      4 Firstsource and the nature of the relationship      5 between the two parties.</p> <p>6 Q. So would those be the only two witnesses that      7 Firstsource plans to call at the trial in this      8 matter?</p> <p>9 MR. BUSHWAY: Object to the form. I'm not going to      10 allow her to answer. It's counsel's decision as      11 to who they may or may not call.</p> <p>12 BY MR. HILLER:</p> <p>13 Q. Well, is there any other evidence other than --      14 is there any testimonial evidence other than that      15 which might be provided by those witnesses that      16 Firstsource possesses that is relevant to these      17 cases?</p> <p>18 MR. BUSHWAY: Object to the form. I'm not going to      19 allow her to answer. I don't think that's      20 proper. She's here as a fact witness on behalf      21 of the company, not to discuss legal strategy.</p> <p>22 MR. HILLER: I just want to know what evidence they      23 have.</p>	<p>1 Q. And it notes a phone number of (716) 578-3206,      2 correct?      3 A. Correct.      4 Q. Do you know where that phone number came from?      5 A. Time Warner Cable.      6 Q. How do you know it came from them?      7 A. Because if anything was changed to the phone      8 number that was initial upon placement, you would      9 see that reflected in the note lines.      10 Q. Where would it be reflected?      11 A. Any -- it would be anywhere. If that was      12 manually changed by anybody in our organization,      13 it would be footnoted anywhere in these note      14 lines at the time that it took place.      15 Q. All right. And it says owing, and immediately      16 under that it says five hundred twenty-five      17 dollars and forty-seven cents, correct?      18 A. Correct.      19 Q. So that's the amount allegedly owing on the      20 account?      21 A. That is -- reflects the amount that was assigned      22 to us at the time of placement.      23 Q. Okay. And it says assigned 1/26/07. Is that</p>
<p>1 MR. BUSHWAY: She's not going to answer the general      2 question what evidence Firstsource may have. You      3 can ask her questions. She can answer what she      4 knows.</p> <p>5 BY MR. HILLER:</p> <p>6 Q. I want to show you what's been marked as      7 Plaintiff's Exhibit 4. Can you identify that,      8 please?</p> <p>9 A. These are account notes.</p> <p>10 Q. And what account is that designated?</p> <p>11 MR. BUSHWAY: When you say account, do you mean the      12 overlying account or the individual just so we're      13 clear? Or both?</p> <p>14 BY MR. HILLER:</p> <p>15 Q. No.</p> <p>16 What client are those notes for?</p> <p>17 A. This is for Time Warner Cable.</p> <p>18 Q. And who is the alleged debtor on that account?</p> <p>19 A. Mia M. Moore.</p> <p>20 Q. And in account -- it says at the top account      21 number 6948366. That's the account number for      22 this account, correct?</p> <p>23 A. Correct.</p>	<p>1 when Firstsource received this account from Time      2 Warner?      3 A. Where are we?      4 Q. Right down there.      5 A. Yes, that is our assigned date. That is when it      6 was loaded into our system.      7 Q. All right. Can that be changed?      8 A. No.      9 Q. Can any of the information in these account notes      10 be changed or modified by anyone at Firstsource?      11 MR. BUSHWAY: Do you mean the heading up on top, Ken,      12 or --      13 MR. HILLER: Any information whatsoever.      14 THE WITNESS: I believe that it can be, but I don't      15 know by whom.      16 BY MR. HILLER:      17 Q. Who would know?      18 A. Potentially Theresa Milbrath. I can tell you      19 operationally we cannot.      20 Q. Is there any indication in this account log      21 anywhere that Susan Moore has -- bears any      22 liability on this account?      23 A. No.</p>

Starkey, et al vs. Firstsource

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Page 50	Page 52
<p>1 Q. All right. Now, when we go down to the notes, it      2 starts with some entries on 1/26/07. Would that      3 be the -- would that reflect certain procedures      4 that are undertaken to open the account?</p> <p>5 A. Yeah. This is something that we see on every      6 account upon upload. What it means I'm not sure,      7 but it is not an actual action that is taken on      8 the account. It's programming.</p> <p>9 MR. BUSHWAY: You're referring to the first whatever      10 number of lines there that is --</p> <p>11 THE WITNESS: Yes. When it says begin strategy,      12 mainstrat one and then two, whoever it -- and      13 then notice.</p> <p>14 BY MR. HILLER:</p> <p>15 Q. You don't know what those mean?</p> <p>16 A. No.</p> <p>17 Q. And then under those notations, it says ODSK,      18 colon, eight thirteen slash SHB. Do you know      19 what that means?</p> <p>20 A. Correct. Yes. ODSK means open desk. Eight      21 thirteen is the name of that open desk. SHB is      22 -- are the CUBS initials of the manager that      23 moved the business from that desk eight thirteen</p>	<p>1 into Soundbite to be called.</p> <p>2 Q. Okay. The next line says Soundbite telephone      3 residence, no answer. Is that what those      4 abbreviations mean?</p> <p>5 A. Yes.</p> <p>6 Q. And that was on 1/26/07, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And then immediately under that it says called on      9 1/26/07, and it gives the time. Does that      10 reflect that a phone call was, in fact, made?</p> <p>11 A. Correct.</p> <p>12 Q. Is that two phone calls that were made or one      13 call that was made?</p> <p>14 A. I'm not sure.</p> <p>15 Q. Is it possible that more than two phone calls      16 were made? Could you tell whether more than two      17 calls were made by those entries on the log?</p> <p>18 A. You can on the Soundbite log.</p> <p>19 Q. But not from this log?</p> <p>20 A. From this log, I'm not sure.</p> <p>21 Q. Then it says received Fastdata report. Can you      22 tell me what that would mean?</p> <p>23 A. That means we -- we do what's called a scrub on</p>
Page 51	Page 53
<p>1 to another desk.</p> <p>2 Q. Where was -- well, was eight thirteen the first      3 desk the account was assigned to?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So would SHB be a program -- an operations      6 manager?</p> <p>7 A. Yes.</p> <p>8 Q. And then the next line says MGR review. I assume      9 that's manager review, correct?</p> <p>10 A. Correct.</p> <p>11 Q. So whoever SHB is reviewed this account at that      12 time and determined how to distribute it?</p> <p>13 A. Correct.</p> <p>14 Q. And then it says account sent to Soundbite,      15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. That's at item fourteen colon forty. So how does      18 an account get sent to Soundbite?</p> <p>19 A. This operations manager would have created a      20 query within CUBS to target this account for      21 whatever reason or whatever query she was putting      22 in. It would have tagged the account to note      23 the fact that it did, in fact, get implemented</p>	<p>1 our business. So it gets sent out to Fastdata      2 which is a vendor to be scrubbed for potential      3 information on that person such as phone number,      4 things like that.</p> <p>5 Q. So scrub -- what information are they trying to      6 find out about a phone number?</p> <p>7 A. Well, say hypothetically this account came with      8 no phone number at all. Fastdata is a tool that      9 we will use to, in fact, find a phone number for      10 them.</p> <p>11 Q. It's a skip-tracing device or company?</p> <p>12 A. Yes.</p> <p>13 Q. And does it search for things such as whether a      14 person filed bankruptcy?</p> <p>15 A. I'm not sure if that's inclusive in Fastdata. I      16 know that we do scrub for that through Banco, but      17 I'm not certain if Fastdata is affiliated with      18 that or not. Regarding the Fastdata report,      19 again, Theresa Milbrath would be the person on      20 that.</p> <p>21 Q. So would there be a report on file with -- a      22 Fastdata report on file with Firstsource? In      23 other words, this says received Fastdata report.</p>

Page 54	Page 56
<p>1 Does that report exist somewhere?</p> <p>2 A. I don't know.</p> <p>3 Q. Does Firstsource keep the Fastdata reports that</p> <p>4 it's provided?</p> <p>5 A. I don't know.</p> <p>6 Q. Theresa Milbrath would know?</p> <p>7 A. Yes, she would.</p> <p>8 Q. Why would a Fastdata report be needed when the</p> <p>9 account already has a name, address, phone</p> <p>10 numbers, the last four numbers of the Social</p> <p>11 Security number, et cetera?</p> <p>12 A. I don't know.</p> <p>13 Q. If you were the operation manager, would you have</p> <p>14 requested a Fastdata report under these</p> <p>15 circumstances?</p> <p>16 A. Only if I -- the only time that I would do that</p> <p>17 as an operations manager is if I received a mail</p> <p>18 return to that address when I tried to send out a</p> <p>19 notice to them or if the phone number that I</p> <p>20 received that I called was disconnected or wrong.</p> <p>21 Q. I'm just -- or if the telephone number was called</p> <p>22 and no answer was received, perhaps wondering</p> <p>23 whether that's the right phone number?</p>	<p>1 letter sent on this account, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And it would have been sent to the Phyllis Avenue</p> <p>4 address?</p> <p>5 A. Correct.</p> <p>6 Q. And so every indication where it says Soundbite</p> <p>7 would indicate that at least one telephone call</p> <p>8 was made as designated by that entry, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And --</p> <p>11 A. Well, let me, let me respond differently to that.</p> <p>12 It will show you -- when we enter in the query</p> <p>13 for the Soundbite to be created, a list is</p> <p>14 created through CUBS. CUBS -- we direct CUBS to</p> <p>15 document that account with the Soundbite stamp.</p> <p>16 Okay? If we do not have that, it's going to go</p> <p>17 to a temporary file within Excel. We physically</p> <p>18 have to load that file into Soundbite's database.</p> <p>19 If we don't do that, it can still stamp the</p> <p>20 account sent to Soundbite without a phone call</p> <p>21 being made if we at some point decide to change</p> <p>22 our strategy and not have it called.</p> <p>23 Q. Okay. But on 1/26/07, it looks like those -- it</p>
<p>1 A. Correct.</p> <p>2 Q. And then it says new address loaded by Fastdata.</p> <p>3 And immediately under that it provides an</p> <p>4 address, 100 Delsan Court?</p> <p>5 A. Yes. So when these accounts go to Fastdata, it</p> <p>6 does not manipulate the information that is</p> <p>7 received by Time Warner Cable. It simply stamps</p> <p>8 the information that is found in the note lines.</p> <p>9 Q. So when this address was received, did</p> <p>10 Firstsource know where this debtor lived?</p> <p>11 A. We were, we were -- we would go by the address</p> <p>12 that was given.</p> <p>13 Q. And Delsan was maybe reserved for future</p> <p>14 reference if it turned out that the 173 Phyllis</p> <p>15 Avenue address was incorrect?</p> <p>16 A. Possibly.</p> <p>17 Q. And then the next line, it looks like it says</p> <p>18 sent notice number one?</p> <p>19 A. Yes.</p> <p>20 Q. Would that be the original 1692-G notice?</p> <p>21 A. It's a standard dunning. I'm not sure what</p> <p>22 you're referring to.</p> <p>23 Q. Right. Okay. And that would have been the first</p>	<p>1 looks like there are two Soundbite references</p> <p>2 indicating two calls were made. Would that be</p> <p>3 correct?</p> <p>4 A. I'm not certain.</p> <p>5 MR. BUSHWAY: You're referring to lines nineteen and</p> <p>6 twenty?</p> <p>7 MR. HILLER: Yes. And actually on to twenty-one.</p> <p>8 MR. BUSHWAY: Okay.</p> <p>9 THE WITNESS: It looks -- if I were to interpret</p> <p>10 this, I would say that a no-result could be that</p> <p>11 the call was dropped. I'm not positive. But</p> <p>12 there was no result at all that was -- there was</p> <p>13 no connection made. It then called it at</p> <p>14 seventeen-eighteen, and that is when it was</p> <p>15 connected to a live party.</p> <p>16 BY MR. HILLER:</p> <p>17 Q. What line number does it say it was connected to</p> <p>18 a live party?</p> <p>19 A. On line nineteen. That means that the, the</p> <p>20 collector, JWA, received that call to his queue</p> <p>21 or to his phone because that person, whoever</p> <p>22 answered the phone, chose option number one, two</p> <p>23 or three. Whichever. And he spoke to a live</p>

Page 58	Page 60
1 person.	1 Q. So would it be customary or normal to program
2 Q. All right.	2 Soundbite to make a call at seven-thirteen and
3 A. Well, whether he spoke to them or not is --	3 then another call five minutes later?
4 Q. All right. And then can the collect -- in this	4 A. If the result was that there was a no-answer or
5 instance, the debt collector wrote a note that	5 the call was somehow lost, yes.
6 the party hung up, correct?	6 Q. So if a person was called -- if a debtor was
7 A. Correct.	7 called and said you have the wrong person, please
8 Q. Would the debt collector have the power to send a	8 don't ever call me again, if Soundbite was
9 message to Soundbite to make another call at that	9 pre-programmed, it would call them five minutes
10 point?	10 later no matter what?
11 A. No.	11 A. No, because a contact was made.
12 Q. That would go in accordance with the	12 Q. Well, in this case a contact -- oh, I see. The
13 pre-programmed criteria put in by the operations	13 first, the first one was no result. It's sort of
14 manager, right?	14 backwards here.
15 A. Correct.	15 A. Yes. Again, because, because when the collector
16 Q. Okay. So why would -- I mean, is this -- in this	16 documents the account, it's in live time. And
17 particular case, a Soundbite call was made at	17 when Soundbite documents it from an automated
18 seventeen-eighteen, which would be five-eighteen	18 standpoint, it's after the fact.
19 p.m., I presume?	19 Q. And then under that on line twenty-two, it says
20 A. Correct.	20 account sent to Soundbite. What does that mean?
21 Q. And then another call was made at ten-forty-eight	21 A. Well, we were looking at the date that was --
22 p.m.?	22 MR. BUSHWAY: 2/06?
23 A. No. The call was made at five-thirteen. When,	23 THE WITNESS: Yep. So that was February 6th. It was
Page 59	Page 61
1 when Soundbite -- when it's not connected to a	1 loaded into the Soundbite system again the next
2 phone where a collector actually puts an action	2 day.
3 code on it and it's, it's through the automated	3 BY MR. HILLER:
4 process through Soundbite, whether it leaves a	4 Q. And, in other words, a new programming order?
5 message, gets a no-answer, that does not process	5 A. Correct.
6 into the note lines until day-end processes when	6 Q. And then each time it says Soundbite thereafter
7 everybody's gone home.	7 in this account designates that a call was made
8 Q. I see. Where does it say it was made -- oh, it	8 by Soundbite, correct?
9 says five-eighteen. That's the first call?	9 A. Correct.
10 A. No. The first call would have been	10 Q. And in each of these, an automated message or
11 five-thirteen.	11 voice-recorded message would have been left with
12 Q. Where do you see that?	12 the debtor whether they answered the phone or
13 A. Line twenty. Or line twenty-one. It got no	13 whether it went onto their answering machine?
14 result. I don't, I don't know exactly what no	14 A. Not necessarily. For example, in the, in the
15 result means, but it's not a no-answer, it's not	15 line twenty-six, there NML means that no message
16 a left-message-to-call, it's not a contact.	16 was left because the person hung up.
17 Q. Now, on line nineteen, that seems to be a	17 Q. Okay. So other than the NML, all the calls by
18 separate and distinct phone call than the call on	18 Soundbite left an automated message?
19 lines twenty and twenty-one.	19 A. It will tell you specifically that.
20 A. Correct.	20 Q. Where does it say that?
21 Q. And can you tell what time the call on line	21 A. Okay. So right here on line twenty-three, there
22 nineteen was made?	22 was no message left because the result was a
23 A. That call would have been made at five-eighteen.	23 no-answer. It never connected to a machine.

Page 62	Page 64
<p>1 Q. So no answer means it never connected to a 2 machine?</p> <p>3 A. Correct. It would say, it would say LMTC. And 4 I'm looking to see if that ever happened on this 5 account. And it doesn't look as if it ever did, 6 so according to these notes, a message was not 7 left.</p> <p>8 Q. On line twenty where it says no result, what 9 would that mean?</p> <p>10 A. No result -- I'm not positive what that verbiage 11 means. I would have to go back to Soundbite and 12 find out what a no-result is. It -- typically 13 when you're looking at Soundbite notes, it will 14 tell you exactly what happened. And no result, 15 if I were to interpret that myself, would mean 16 that a connection was not made at all. Calls get 17 lost sometimes.</p> <p>18 Q. And all the calls in which a person was put 19 through to a collector, that debtor would have 20 received an automated message saying something 21 along the lines of please hold for the next 22 operator or something like that?</p> <p>23 A. Correct.</p>	<p>1 A. Correct.</p> <p>2 Q. And even where it doesn't say res, where it says 3 nine hundred, that means -- every reference to 4 nine hundred means somebody picked up the call?</p> <p>5 A. I'm not certain what the nine hundred represents. 6 I do believe that is dialer-specific. Every time 7 we see a dialer stamp, a nine hundred is on 8 there.</p> <p>9 MR. BUSHWAY: Are you asking, Ken, what the 10 difference between E-answered in twenty-nine is 11 and just answered in thirty?</p> <p>12 MR. HILLER: Yes.</p> <p>13 THE WITNESS: Say that again.</p> <p>14 MR. BUSHWAY: The line twenty-nine is E-answered and 15 thirty is --</p> <p>16 THE WITNESS: That I'm not sure.</p> <p>17 BY MR. HILLER:</p> <p>18 Q. Well, what told you -- what designation in lines 19 twenty-eight and twenty-nine led you to conclude 20 that the debtor answered the call?</p> <p>21 A. Because that's what it says, answered call.</p> <p>22 Q. I see. So they answered all three of those, 23 twenty-eight through thirty?</p>
Page 63	Page 65
<p>1 Q. Then on line twenty-seven, it says called on 2 2/14/07. That would have been a live call made 3 by a debt collector?</p> <p>4 A. No.</p> <p>5 Q. What is that?</p> <p>6 A. That is the Soundbite -- I'm not sure if this is 7 a result because you're looking at a duplicate 8 time stamp. This looks like a day-end stamp to 9 me.</p> <p>10 Q. Okay. And what does E-answered call mean?</p> <p>11 A. That is a Blaster.</p> <p>12 Q. All right. And is there a way to tell whether 13 the Blaster left a message?</p> <p>14 A. It will tell you that it left -- again, LMTC -- 15 that it left a message.</p> <p>16 Q. So on line twenty-eight and twenty-nine where it 17 says E-answered call and it says res upside down 18 exclamation point nine hundred, do you know what 19 that means?</p> <p>20 A. Somebody picked up the phone and answered the 21 call.</p> <p>22 Q. So they then would have received a voice-recorded 23 message?</p>	<p>1 A. Yes.</p> <p>2 Q. And when they answered the call, they would have 3 received a voice-recorded message press one if 4 you are the debtor, press two if you're not?</p> <p>5 A. It will say that on Soundbite. On a Blaster it 6 will simply tell them to call back the number 7 that's provided.</p> <p>8 Q. And so in each of these calls when the person 9 answered, they would have got a voice-recorded 10 message?</p> <p>11 A. Correct.</p> <p>12 Q. Now I want to take you down to seventy-eight and 13 seventy-nine on page two. What does D-sit tone 14 mean?</p> <p>15 A. A sit tone is -- it could be a fax modum. It 16 could be the da, da, da.</p> <p>17 Q. Okay. So some sort of tone. When they called, 18 some sort of tone was left?</p> <p>19 A. Correct.</p> <p>20 Q. And then it says tel disconnected. What does 21 that mean?</p> <p>22 A. That the telephone number is disconnected.</p> <p>23 Q. All right. And then they called -- so that was</p>

Starkey, et al vs. Firstsource

Condensel!™

Page 66	Page 68
<p>1 on 5/18 -- 5/17 and 5/18. And then 5/21 they      2 called again and apparently it was not      3 disconnected?</p> <p>4 MR. BUSHWAY: You're referring to line eighty-three?</p> <p>5 MR. HILLER: Yes.</p> <p>6 THE WITNESS: No. Eighty-four is simply saying that      7 it was called on the 21st of May at      8 eighteen-o-one.</p> <p>9 BY MR. HILLER:</p> <p>10 Q. All right. So it doesn't tell you whether it was      11 disconnected or not?</p> <p>12 A. Well, I don't -- it doesn't seem to, no. But it      13 does -- in the note line above, it says that it      14 got a sit tone.</p> <p>15 BY MR. HILLER:</p> <p>16 Q. I want you to skip ahead to line one sixty-five.      17 I mean, pre -- prior to this, the two pages of      18 notes repeatedly say telephone disconnected. Is      19 there any indication that a different phone      20 number was called?</p> <p>21 A. No.</p> <p>22 Q. Okay. So, but for whatever reason, on 9/11/07,      23 apparently the call was able to get through to</p>	<p>1 try to learn whether a call is made to a cell      2 phone or to a landline?</p> <p>3 A. Presently, yes.</p> <p>4 Q. What is that procedure?</p> <p>5 A. I'm not -- Christopher Habschied owns that      6 process. How he scrubs for those I'm not sure.</p> <p>7 Q. Okay. And why do you scrub for that?</p> <p>8 A. I -- I'm assuming it came down from the FTP some      9 time ago, but I'm not positive.</p> <p>10 Q. What's the FTP?</p> <p>11 A. Don't know.</p> <p>12 MR. BUSHWAY: I think she's referring to the FTCP.</p> <p>13 THE WITNESS: FTCP, that would be it.</p> <p>14 MR. HILLER: FTCP ruling.</p> <p>15 THE WITNESS: We've gotten an e-mail on it, but I      16 don't --</p> <p>17 BY MR. HILLER:</p> <p>18 Q. The e-mail being that voice-recorded messages      19 should not be left on cellular telephones?</p> <p>20 A. That we would not have the capability.</p> <p>21 Q. But that was not in place when any of the calls      22 were made to -- on this account?</p> <p>23 A. I'm not sure.</p>
Page 67	Page 69
<p>1 somebody?</p> <p>2 A. It looks as though it did, yes.</p> <p>3 Q. And what does party HU hold message mean?</p> <p>4 A. That they hung up when they were holding for the      5 message.</p> <p>6 Q. Okay.</p> <p>7 A. Now, it would probably be important to know from      8 your previous question on whether it was able to      9 call another number, Soundbite and Blasters can      10 only call the -- what we call a reach one which      11 is the residential number in the top of the, of      12 the note lines here that's provided.</p> <p>13 Q. Okay.</p> <p>14 MR. BUSHWAY: Meaning the heading on page one?</p> <p>15 THE WITNESS: Yes. It, it cannot call any other      16 number.</p> <p>17 BY MR. HILLER:</p> <p>18 Q. And is there any indication in the account log      19 indicating whether the telephone call was a      20 cellular telephone or a landline?</p> <p>21 A. At the time that these calls took place, I don't,      22 I don't know.</p> <p>23 Q. Does Firstsource have any procedure in place to</p>	<p>1 Q. So in this line one sixty-five, it says party      2 hung up, hold message, so would this party have      3 heard the automated and voice-recorded message?</p> <p>4 A. I don't know.</p> <p>5 Q. But it's possible that they would have?</p> <p>6 A. It's possible.</p> <p>7 Q. And then line one sixty-seven says S dash AMD      8 mess left. Can you tell me what that means?</p> <p>9 A. It left a message. It left the automated      10 message.</p> <p>11 Q. All right. Does Firstsource have a policy      12 regarding how many times per day a debtor should      13 be called?</p> <p>14 A. Once per day. If no contact is made, we can call      15 it up to three.</p> <p>16 Q. So if you get in touch with the person, that      17 would end the calls for that particular day?</p> <p>18 A. Correct. Or if we've left a message on a voice      19 mail, that ends the efforts for the day.</p> <p>20 Q. So going back to lines nineteen through      21 twenty-one -- I'm sorry, I take that back. I      22 understand.</p> <p>23 And now, line one ninety-six says canceled C</p>

Page 70

1 and R five twenty-five point forty-seven. Can  
 2 you tell me what that means?  
 3 A. We're on one ninety-six you said?  
 4 Q. Yes, one ninety-six.  
 5 A. That means the account was canceled and closed  
 6 and returned back to the client.  
 7 Q. Okay. So is there any indication in this log  
 8 that Firstsource ever spoke to anyone on this  
 9 account?  
 10 A. According to the notes, no.  
 11 Q. And what is the policy of Firstsource regarding  
 12 documenting telephone calls and conversation made  
 13 by debt collectors in their attempts to collect  
 14 debts?  
 15 A. We are -- they are -- every person making an  
 16 attempt on a phone number is required to document  
 17 in their complete notes any conversation or what  
 18 actually happened on the call.  
 19 MR. BUSHWAY: Is your question based on if the call  
 20 is answered by a person versus a machine?  
 21 BY MR. HILLER:  
 22 Q. Right. If a conversation takes place there, they  
 23 should document certainly at least that a

Page 72

1 skill set through our telephony, it would be  
 2 routed to one of those people with an open line.  
 3 Q. And when the -- so some collector will receive  
 4 some sort of notification on their computer  
 5 screen that there's a call for them, or how would  
 6 that --  
 7 A. On their phone.  
 8 Q. On their phone. The phone would ring?  
 9 A. Yes.  
 10 Q. And when they answer the phone, is there any  
 11 automatic entry into the call log that a call was  
 12 made on the -- when they, when they locate the  
 13 account -- say they have a conversation with the  
 14 debtor, they locate the account. Is there any  
 15 automatic entry into the log that a call was  
 16 received?  
 17 A. Through the telephone system, yes.  
 18 Q. Once they locate it within a particular account?  
 19 A. Well, any incoming or outgoing call is logged by  
 20 our telephone system. Those numbers can be  
 21 queried. As far as the collector of CUBS and  
 22 stamping that, the CUBS does not have the  
 23 capability of doing that, no.

Page 71

1 conversation took place and hopefully the details  
 2 of that conversation?  
 3 A. Absolutely.  
 4 Q. So if there were any calls where conversations  
 5 took place, whoever had that conversation did not  
 6 follow Firstsource's policies?  
 7 A. If, if one, in fact, took place.  
 8 Q. Yes. Okay. Would the log show incoming calls?  
 9 A. Yes.  
 10 Q. Is --  
 11 A. Not automatically. Let me rephrase that.  
 12 Q. Would somebody have to log that in?  
 13 A. Yes.  
 14 Q. The debt collector?  
 15 A. Correct.  
 16 Q. Well, tell me how an incoming call is handled.  
 17 A. An incoming call, it's routed. It looks -- the  
 18 call actually looks for an open line based upon  
 19 the number that it's calling in from. We have  
 20 designated toll-free numbers to each client that  
 21 we have. If they call the one-eight-hundred  
 22 number for Time Warner Cable, it's going to get  
 23 routed. So whoever is on the -- what we call a

Page 73

1 Q. So incoming and outgoing calls are -- the fact  
 2 that they're just calls being made or received  
 3 are recorded but not in the CUBS system?  
 4 A. Correct.  
 5 Q. Some of them, like Soundbite and the Blaster  
 6 calls, are automatically recorded, correct?  
 7 A. In the Soundbite log.  
 8 Q. So is it possible that calls were made or  
 9 received and not reflected in this log?  
 10 A. That could be possible.  
 11 Q. Does Firstsource -- is there any indication in  
 12 this log or elsewhere that Susan Moore committed  
 13 any fraudulent activity with respect to her Time  
 14 Warner account?  
 15 MR. BUSHWAY: Object to the form. You can answer.  
 16 THE WITNESS: Oh, I have no -- I don't know.  
 17 BY MR. HILLER:  
 18 Q. You're not aware of any such evidence?  
 19 A. I'm not aware of any such evidence, no.  
 20 Q. Is there any, is there any indication in this log  
 21 or elsewhere that Susan Moore consented to  
 22 receiving these calls?  
 23 A. I have -- I don't know. Nothing in these note

Page 74	Page 76
<p>1 lines indicate -- well, Susan Moore is not the      2 person that we're trying to contact. I -- we      3 didn't have contact, it looks like, with anybody      4 except for the hang up, so --</p> <p>5 Q. I'm going to go to Plaintiff's Exhibit 8.</p> <p>6 MR. BUSHWAY: Which is who?</p> <p>7 MR. HILLER: This is Starkey.</p> <p>8 MR. BUSHWAY: Can we mark the record we're now on to      9 Starkey just so we keep it clear. Off the      10 record.</p> <p>11 (Discussion off the record.)</p> <p>12 BY MR. HILLER:</p> <p>13 Q. So with respect to this account, this shows that      14 the original amount was one hundred eighty-six      15 dollars and thirty-six cents, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And the account was assigned on 1/8/07?</p> <p>18 A. Correct.</p> <p>19 Q. Do accounts that were originally with Account      20 Solutions Group all get assigned in January of      21 2007 even if they were opened prior to that time?</p> <p>22 A. No. The stamp that goes on the account on the      23 assignment date is when we get the file in our</p>	<p>1 This account was put into my desk.</p> <p>2 Q. So you were the operations manager for this      3 account?</p> <p>4 A. Yes. Well, partially. I took this over after      5 SHB left.</p> <p>6 Q. What does phone GC review mean?</p> <p>7 A. It means general counsel review. So it would      8 indicate to me looking at the account that      9 something was happening that required general      10 counsel to review it and we can no longer pursue      11 any kind of collection activity on the account.</p> <p>12 Q. I thought you testified earlier that when a phone      13 number is put in there, it never gets changed.      14 Like when you receive the account from Time      15 Warner and they provide you with a phone number      16 that that phone number remains the same      17 throughout the account history.</p> <p>18 A. Okay. Then I must have misunderstood your      19 question.</p> <p>20 MR. BUSHWAY: Let me -- I asked and -- you know, I'll      21 clarify this with whatever we need to get later,      22 Ken, because I asked this question yesterday,      23 because of the four sheets, why that was the only</p>
<p>1 office from the client.</p> <p>2 Q. So if this account was received by Account      3 Solutions Group when it was still an entity and      4 still doing debt collection and subsequently      5 assumed by Firstsource --</p> <p>6 MR. BUSHWAY: Object to the form.</p> <p>7 BY MR. HILLER:</p> <p>8 Q. -- would there be any indication on the account      9 log as to the fact that this was originally an      10 Account Solutions Group and now this is a      11 Firstsource account?</p> <p>12 A. No.</p> <p>13 MR. BUSHWAY: I believe she's testified she doesn't      14 know when the actual corporate --</p> <p>15 THE WITNESS: But I don't -- if I'm understanding      16 your question correctly, it would have no      17 bearing. That would have no bearing on the      18 account itself.</p> <p>19 BY MR. HILLER:</p> <p>20 Q. It says desk unit WJE on the first column up at      21 the top. What does that mean?</p> <p>22 A. That is, that is a file. That was -- it's a      23 desk. So that -- those are actually my initials.</p>	<p>1 one that was put in there. And what I was told      2 is, that was done when this was pulled. If you      3 see at the very top, it says March 19th, 2008.      4 Very, very top.</p> <p>5 MR. HILLER: Yes. Yes.</p> <p>6 MR. BUSHWAY: Okay. That's when this was -- when the      7 lawsuit had started, it was being pulled. That      8 notation of G and C review was put in at that      9 point. It did not happen on the other three.      10 But that was what I was told when I asked that      11 question. General counsel. If you -- we can      12 obviously work out some sort of documentary to      13 verify that, that that notation was done. I      14 don't know if Jessica was part of that      15 conversation that I had with general counsel.</p> <p>16 THE WITNESS: Well, I want to clear up the answer to      17 that question. Initially I thought what you had      18 meant was when it's uploaded into the system do      19 we have a way of manipulating what number appears      20 on the account on initial upload, and the answer      21 to that question is no. Can we manipulate that      22 phone number once it's in the queue and under a      23 collector's influence? Certainly. If somebody's</p>

Page 78	Page 80
<p>1 giving us -- if they say it's a wrong number and      2 they say you want to reach them at this number,      3 then we absolutely can go in and change that      4 number.</p> <p>5 BY MR. HILLER:</p> <p>6 Q. And that would be reflected in the account notes      7 that the number was changed?</p> <p>8 A. Correct.</p> <p>9 Q. Okay.</p> <p>10 MR. BUSHWAY: I was speaking just as to why it says G      11 and C review instead of a phone number, and that      12 was the explanation I was given. So I was      13 speaking strictly to the --</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. BUSHWAY: To that line, because I noticed the      16 same thing that you did.</p> <p>17 BY MR. HILLER:</p> <p>18 Q. All right. And on line twenty-one, it says --      19 can you tell me what those initials mean on that      20 line?</p> <p>21 A. That means that Soundbite called the, the number      22 and somebody picked up the phone, and while they      23 were holding to transfer that call to an</p>	<p>1 A. Correct.</p> <p>2 Q. And lines thirty-seven and thirty-eight, can you      3 tell me what those -- and actually through forty,      4 can you tell me what those abbreviations mean?</p> <p>5 A. Those mean that an automated message was left.</p> <p>6 Q. Okay. And on line fifty-two, who called on March      7 9th, 2007?</p> <p>8 A. That would be Soundbite. Soundbite always      9 subsequently places it because of the day-end      10 process that -- when it was called and what time      11 it was called. So what you're seeing -- like      12 when you see account sent to Soundbite, that just      13 simply means that that's when the account was      14 tagged to be loaded into the template. When it      15 was actually called is always going to be stamped      16 underneath it by the actual automated system.</p> <p>17 Q. And on line fifty-one, it says telephone      18 residence, no answer.</p> <p>19 A. Um-hum.</p> <p>20 Q. Would Soundbite have left a message if there was      21 an answering machine?</p> <p>22 A. Not necessarily. Again, it depends on the      23 operations manager's strategy at the time. We</p>
<p style="text-align: center;">Page 79</p> <p>1 available collector, that person hung up before      2 that transfer could take place.</p> <p>3 Q. And so if the person hung up while they were on      4 hold, they would have heard an automated message?</p> <p>5 A. I don't know.</p> <p>6 Q. Well, isn't the only way that they get placed on      7 hold is if they press a button, a one or a two,      8 to be placed through to somebody?</p> <p>9 A. I don't know if there's a lag time between when      10 the phone rings and that person picks up the      11 phone, if there could possibly be a second or two      12 of just dead air before the automation comes on.      13 I don't know how quickly that response time is,      14 so it's always possible that they could have hung      15 up then.</p> <p>16 Q. The only one who would really know that then      17 would be the debtor or whoever answered that      18 phone call themselves?</p> <p>19 A. Correct. Somebody -- a representative from      20 Soundbite might be able to answer that question      21 as well. I'm not sure.</p> <p>22 Q. Okay. And in line twenty-nine where it says      23 LMTCB, that's left message to call back, correct?</p>	<p style="text-align: center;">Page 81</p> <p>1 can check a box to say deliver that message or      2 don't.</p> <p>3 Q. Can you tell from this what instruction Soundbite      4 had?</p> <p>5 A. No, I can't.</p> <p>6 Q. You would have to look at the Soundbite log,      7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And does the Soundbite log document every call as      10 well and whether a message was left?</p> <p>11 A. I believe it does.</p> <p>12 Q. Okay. All right. I want to take you down to      13 line sixty-three.</p> <p>14 A. Okay.</p> <p>15 Q. Can you tell me what that -- those abbreviations      16 mean?</p> <p>17 A. Yes. AKI was the collector that received an      18 inbound call. And she -- the review caller ID      19 simply is her putting in the caller ID that      20 showed up on her phone from the inbound call.</p> <p>21 Q. Okay. And then lines sixty-four through      22 sixty-seven are notes of the nature of the      23 telephone conversation?</p>

Starkey, et al vs. Firstsource

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	Page 82		Page 84
<p>1 A. Correct.</p> <p>2 Q. Can you tell me what the notes indicate to you or 3 what's discussed?</p> <p>4 A. Yes. AKI spoke with the cardholder, documented 5 that the cardholder stated that she could not pay 6 in full, she needs a payment plan. Stated that 7 she needs payment plan and she cannot do anything 8 until April 20th. Refused even fifty dollars, 9 stated she is broke.</p> <p>10 Q. What does WB slash AKI mean?</p> <p>11 A. Worked by and then the CUBS initials.</p> <p>12 Q. Does the -- do these notes indicate whether the 13 debt collector informed the -- gave any mini 14 Miranda warning to the debtor?</p> <p>15 A. It does not indicate either way.</p> <p>16 Q. Is it Firstsource's policy that in all 17 communication with debtors that debt collectors 18 should give them a mini Miranda warning?</p> <p>19 A. Yes.</p> <p>20 Q. The Miranda warning, can you tell me what that 21 is?</p> <p>22 A. This is an attempt to collect a debt, any 23 information obtained will be used for that</p>		<p>1 employed with the company.</p> <p>2 Q. Do you know why? Was she terminated?</p> <p>3 A. I don't believe so. I don't believe so. I think 4 she left voluntarily.</p> <p>5 Q. Do you know if she was ever reprimanded for not 6 fully documenting conversations she had with 7 debtors?</p> <p>8 A. I'm not sure.</p> <p>9 Q. Would that be in her personnel file?</p> <p>10 A. Yes.</p> <p>11 Q. I'd like you to go to lines one hundred through 12 one o-four, and if you could tell me what those 13 abbreviations mean.</p> <p>14 A. Okay. Again, an incoming call came into the 15 line. They reviewed the caller ID number and 16 stamped the number that showed up on their 17 telephone screen. It was worked by WLN who was 18 William Nunley. What he did is, he promised the 19 account out, stated that he did give the mini 20 Miranda. He requested to obtain payment in full 21 from the customer. And the customer agreed to 22 pay fifty dollars on May 31st; on June 14th, 23 sixty-eight dollars and eighteen cents; and on</p>	
	Page 83		Page 85
<p>1 purpose.</p> <p>2 Q. And are the debt collectors trained to document 3 the fact that they left a mini Miranda warning 4 when they document telephone conversations with 5 debtors?</p> <p>6 A. They should, yes.</p> <p>7 Q. So in this case, either a mini Miranda was not 8 given or it was given and the debt collector did 9 not follow Firstsource's policies and didn't 10 record it?</p> <p>11 A. Correct.</p> <p>12 Q. And what does line sixty-eight designate?</p> <p>13 A. That another calling took place and she followed 14 up with, or calling followed up with, but these 15 should specify who she was speaking to. Again, 16 the collector did not document full and complete 17 notes.</p> <p>18 Q. So the debtor called back and we don't know what 19 was said?</p> <p>20 A. We don't know who called back. She's not 21 indicating who called back.</p> <p>22 Q. And do you know who AKI is?</p> <p>23 A. Her name is Ashley Kirk. She is no longer</p>		<p>1 June 28th, she would pay sixty-eight dollars and 2 eighteen cents.</p> <p>3 Q. And what does res PTP mean again?</p> <p>4 A. Res means that it was the residential number that 5 he called and a PTP is a promise to pay.</p> <p>6 Q. Okay. So does that mean he was trying to obtain 7 a promise to pay?</p> <p>8 A. That he did obtain a promise to pay.</p> <p>9 Q. He did. Okay. And then lines one-o-five through 10 one-o-seven document that -- actually, through 11 one-o-nine document that payments were, in fact, 12 made by the debtor, correct?</p> <p>13 A. Correct.</p> <p>14 Q. So every pay check number documents the receipt 15 of a check from the debtor?</p> <p>16 A. Yes. PD check stands for a postdated check.</p> <p>17 Q. I see. Do you know if letters -- any letters 18 were sent out to the debtor before depositing 19 those postdated checks?</p> <p>20 A. It looks to me that on line one-o-nine on May 21 23rd of 2007, a letter did go out letting the 22 customer know that we did have a check on file 23 for them. That was going to be sent.</p>	

Page 86	Page 88
1 Q. And then line one ten, what does that mean?	1 client. We close the account and notify the
2 A. That means that it was -- the account moved from	2 client that the payment in full has taken place
3 open desk AD1 to MSD.	3 so they can update their records.
4 Q. And who is that?	4 Q. So she apparently paid this in full in -- when?
5 A. AD1 was simply an open desk for Adelphia and MSD	5 When did she do that?
6 was Daniel Martin.	6 A. The actual -- the last payment, it looks like
7 Q. And is Daniel Martin and WLN who you identified	7 that posted on the 28th of June.
8 still with the company?	8 Q. Okay. And then on 7/3, it says paid, checks
9 A. Daniel Martin is not. William Nunley, I'm not	9 completed, add to tickler. What would that mean?
10 sure.	10 A. The tickler -- if you go back to the first page,
11 Q. One eleven says sent letter paid. Can you tell	11 the tickler -- well, you're not going to see it
12 me what that means?	12 on here. Sorry. It's where -- it's a column
13 A. Again, it is a letter with a, with a post date.	13 within -- on the top of the screen where the
14 So I -- the post date, okay? So when you go back	14 collector can go in and they can put the promise
15 to one-o-nine, the letter was requested by the	15 in, the promise to pay, amount, promise to pay
16 system. Line one eleven reflects when it was	16 date. Or let's just say that they called the
17 actually sent.	17 account and they wanted to time it up for the
18 Q. And then what does one twelve mean?	18 next day to be called. That's the tickler. They
19 A. That means that the check for fifty dollars was	19 can put all of that information in there.
20 selected by the system to be printed.	20 Once the account is on a postdated check
21 Q. And what does one thirteen mean?	21 plan or a promise to pay has taken place, all of
22 A. One thirteen means that it was actually printed.	22 that information is removed from the tickler so
23 Q. And one fourteen and one fifteen?	23 that it doesn't populate into their queue.
Page 87	Page 89
1 A. One fourteen is when it posted to the account.	1 Q. So what would they be adding to the tickler at
2 The payment.	2 this point --
3 Q. And then one sixteen?	3 A. Let's see.
4 A. Again, this would be a request for a postdated	4 Q. -- in one thirty-three? Because it says zero
5 letter to go out to the customer to let them know	5 balance right above that.
6 that they again have another check to be	6 A. Bill, Bill -- it looks like William Nunley made
7 withdrawn.	7 an error. What happens is, once the account is
8 Q. So on line fourteen where it has fifty point zero	8 zeroed out, all the information is removed from
9 zero and then later on it says auto post, that	9 the tickler because there's no reason for it to
10 means fifty dollars was received and posted to	10 be populating into someone's queue. It's a waste
11 the account?	11 of time. When William Nunley looked at the
12 A. Correct.	12 account, it gives you the option to add the
13 Q. And is every letter mailed by Firstsource	13 information back to the tickler for that
14 documented on the -- on this log?	14 particular collector or not. He put yes instead
15 A. Yes. Any letter that was sent would be	15 of no.
16 documented on the log.	16 Q. Okay. And then the next line, perhaps he noticed
17 Q. So was this account paid in full by the debtor?	17 this error and he said the account has been
18 A. Yes.	18 settled?
19 Q. Tell me how a file is closed. What is the	19 A. Yes.
20 process of closing a file?	20 Q. And so would he then transfer the account to
21 A. It depends on the action that's taken place. So,	21 somebody else? Would he have been done with the
22 in this case, the account was paid in full. Once	22 account at this point?
23 that paid-in-full is received, we notify the	23 A. Yeah, that's correct. So he -- when he put that

Page 90	Page 92
<p>1 -- when it says collector review account has been      2 settled, he used an action code to, to reflect      3 that, that the account has been settled, and then      4 it was overwritten by the cancellation for      5 payment in full on July 28th.</p> <p>6 Q. Somebody overrode what?</p> <p>7 A. The status code.</p> <p>8 Q. Because the status code said that the account was      9 still open?</p> <p>10 A. No. It just changed it from a paid-in-full to      11 settled in full, and then it changed it back to a      12 paid-in-full.</p> <p>13 Q. Paid in full means you paid the full amount due.      14 Settled in full is where you pay a lower amount      15 by agreement, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And who would have corrected that?</p> <p>18 A. It would happen automatically.</p> <p>19 Q. Okay. And then what does line one thirty-four      20 mean?</p> <p>21 A. That it went from desk -- Bill Nunley's desk,      22 WLN, to my desk, WJE, to take it out of      23 population.</p>	<p>1 has to do with client requirements on how these      2 accounts get reported back to them.</p> <p>3 Q. Okay.</p> <p>4 A. And time frames.</p> <p>5 Q. Well, but I just want to know how it got -- how      6 in general an account would get to your desk to      7 put final closure on the account. How would that      8 happen?</p> <p>9 A. Well, that doesn't dictate the closure. That      10 just means that it was moved from one desk to      11 another. Once the account reflects a zero      12 balance, the CUBS is designed to automatically      13 put a payment-in-full status code on an account.</p> <p>14 Q. Okay. And is there -- is that then put in some      15 sort of queue to close at that point?</p> <p>16 A. It can be. It can be supported which means that      17 it can be put into the client relations desk.      18 But, again, that is a manual attempt. Or      19 typically, our clients will -- they will go      20 through a recall process and be closed and      21 recalled to the client. What Time Warner's      22 policies were for recalling their accounts I      23 don't know.</p>
Page 91	Page 93
<p>1 Q. Was that done automatically or did William do      2 that?</p> <p>3 A. It could be that I did that. It could have --      4 any -- I mean, he doesn't -- he could have. He      5 doesn't have the ability on -- at a collector's      6 level to change the desk. Only a supervisor or      7 higher can change a desk.</p> <p>8 Q. Okay. So how would this file have come to your      9 attention?</p> <p>10 A. It could have been that he may have complained      11 and said this keeps coming up or it's in my code      12 and it's paid in full. I don't, I don't want it      13 to keep showing itself to me. And I may have      14 taken it out to -- just because nobody works my      15 file. When it's stamped WJE, that's where -- the      16 accounts that maybe are a zero balance that the      17 client has not recalled yet, we might put it      18 there to just take it out of general population.</p> <p>19 Q. So after an account was paid in full, describe to      20 me the proper procedure for closing out a file at      21 that point to get it to your desk to close out.</p> <p>22 A. Well, that -- that's client-specific and that's      23 another question for Theresa Milbrath because it</p>	<p>1 Q. Is there ever an instance where a file is left      2 open more than thirty days after it's paid in      3 full?</p> <p>4 A. I don't know.</p> <p>5 Q. Well, does Time -- does Firstsource have some      6 sort of procedure to insure that there are not an      7 excessive number of paid-in-full files still      8 open?</p> <p>9 A. Yes.</p> <p>10 Q. And what is that?</p> <p>11 A. It's called our exceptions report. So if I have      12 a paid-in-full and there's something on that      13 account that dictates that maybe the client's      14 standard hasn't been yet -- let's just say it      15 says payment in full but there's still five cents      16 showing on the balance -- this is hypothetically      17 -- and the client standard says no, you can't      18 send it back to us until it's zero, it's going to      19 be on a specific report that the managers receive      20 through an e-mail every day to say you need to      21 look at this, there's something not right with      22 it.</p> <p>23 Q. And so is it sorted by oldest to youngest case?</p>

Page 94	Page 96
<p>1 For instance, a paid-in-full account more than --      2 that's been paid in full for, say, two months, it      3 may be at the top of the list in some way and one      4 that was just paid in full a week ago would be      5 lower on the list?</p> <p>6 A. I'm not sure if, again, if that's      7 client-specific. I only look at the exceptions      8 that are pertinent to my client codes. So if you      9 have a client out there that says we don't need      10 to know about this for twenty days, don't tell      11 us, that's always a possibility. And you may      12 have another client that says I want to know      13 within seven.</p> <p>14 Q. And who is responsible for handling the Time      15 Warner accounts?</p> <p>16 A. Well, we no longer have Time Warner as a client.</p> <p>17 Q. Who was responsible?</p> <p>18 A. Me.</p> <p>19 Q. Okay.</p> <p>20 A. After, after Barbara Healey. She was the primary      21 manager. I only had Time Warner Cable I think      22 for two or three months.</p> <p>23 Q. Were you the manager -- do you know what months</p>	<p>1 -- three and a half months later in November of      2 2008. Is that unusual for it to take that long      3 for it to get to you to close out?</p> <p>4 A. Yes. And the reason being is, Bill Nunley went      5 in and changed the status of the account.</p> <p>6 Q. To paid in full?</p> <p>7 A. To a settled-in-full versus a paid-in-full. I      8 don't know when the computer system caught that      9 and changed it back. I'm not really sure how      10 that's programmed or designed.</p> <p>11 Q. Well, they caught it, it looks like, on 7/28/07      12 where it says canceled, paid in full, close?</p> <p>13 A. Right.</p> <p>14 Q. Why would it have taken until November 8th for      15 you to actually close out the account?</p> <p>16 A. I'm not sure.</p> <p>17 Q. Is that unusual for it to take that long?</p> <p>18 A. Yes, definitely that is unusual.</p> <p>19 MR. HILLER: All right. I'd like to take a break.</p> <p>20 MR. BUSHWAY: Are we done with Starkey?</p> <p>21 MR. HILLER: Yes. Do you want to take a      22 fifteen-minute break?</p> <p>23 MR. BUSHWAY: Yes.</p>
<p>1 those were?</p> <p>2 A. Gosh. I want to say -- I'm trying to remember      3 when I was promoted. June of -- was it '06?</p> <p>4 Yes.</p> <p>5 MR. BUSHWAY: I want to say roughly the account was      6 canceled end of calendar year 2007. By that I      7 mean, you know, I don't know if it was December      8 20th or January 10th, but around, you know, the      9 end of the year of 2007.</p> <p>10 MR. HILLER: Okay.</p> <p>11 MR. BUSHWAY: So somewhere in that range is the      12 closure date. Whether --</p> <p>13 BY MR. HILLER:</p> <p>14 Q. It says PI -- on line one thirty-three, it says      15 PIF close, 7/28. And so at that point would you      16 have been receiving exception reports for this      17 account on that because it's paid in full and the      18 account still remains an open account?</p> <p>19 A. I'm not sure. I would have to review the report.</p> <p>20 Q. And where are those reports kept?</p> <p>21 A. Theresa Milbrath would have a log.</p> <p>22 Q. And is it unusual for -- I mean, apparently it      23 got to your desk four months later. Almost four</p>	<p>1 (Whereupon, a short recess was then taken      2 and Mr. Borgese left the proceedings.)</p> <p>3 BY MR. HILLER:</p> <p>4 Q. I'm showing you Plaintiff's Exhibit 10. Can you      5 identify that?</p> <p>6 A. Donna Riley. Donna D. Riley.</p> <p>7 Q. It's her account log, correct?</p> <p>8 A. Correct.</p> <p>9 Q. That states that it was assigned 10/5/06,      10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. And that three hundred seventy dollars and      13 ninety-three cents was originally owed on the      14 account, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And who is manager SHB?</p> <p>17 A. Barbara Healey.</p> <p>18 Q. This would have been in 2006 when it was still      19 under the auspices of Account Solutions Group?</p> <p>20 A. I believe so. Again, I cannot recall as to the      21 exact date of the name change.</p> <p>22 Q. At the very top it says Firstsource Advantage,      23 LLC. When it was -- when the account was at</p>

Page 98	Page 100
<p>1 Account Solutions Group, was it different at the 2 top?</p> <p>3 A.I don't know.</p> <p>4 MR. BUSHWAY: I would note that Firstsource/Account 5 Solutions Group is on the same line as the March 6 2008 run line, and, therefore, which was -- the 7 March 2008 date is then running the reports for 8 me which may mean that that line is the same 9 computer line and, therefore, have nothing to do 10 with the actual -- correct?</p> <p>11 THE WITNESS: Correct.</p> <p>12 MR. BUSHWAY: This would merely reflect that it was 13 printed.</p> <p>14 THE WITNESS: Correct. That would not show up on the 15 actual screen.</p> <p>16 BY MR. HILLER:</p> <p>17 Q. So line twenty-nine indicates that a message was 18 delivered to a live person, correct?</p> <p>19 A. Correct.</p> <p>20 Q. It would have been an automated message, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And the only way you can really determine whether 23 or not an automated message was left is by</p>	<p>1 campaign where it's not set up to be delivered to 2 a collector; that it simply acts as a Blaster 3 would and simply leaves a call-back number for 4 that person.</p> <p>5 Q. Okay. And you could verify that by looking at 6 the Soundbite log, correct?</p> <p>7 A. Yeah. We would have to see how that was set up. 8 I'm not sure if the log would identify that or 9 not.</p> <p>10 Q. Is Soundbite -- are those calls placed by a 11 company other than Firstsource?</p> <p>12 A. Yes. So the way that Soundbite is set up and how 13 it's run is by a third-party vendor. We simply 14 put the accounts from a temporary Internet file 15 -- or, I'm sorry, Excel file into it and we 16 upload it into their database and they run it.</p> <p>17 Q. Okay.</p> <p>18 A. How that communication happens, I'm not sure.</p> <p>19 Q. Does Firstsource keep those Excel files?</p> <p>20 A. They do get, they do get erased every now and 21 then when we get very full, but how often that 22 happens or where they go after that I'm not sure.</p> <p>23 Q. And what is the vendor that operates Soundbite?</p>
Page 99	Page 101
<p>1 looking at the Soundbite log?</p> <p>2 A. Correct. You could, you could -- you can look at 3 the note line and it tells you right in the notes 4 that it was delivered to a live person.</p> <p>5 Q. Correct.</p> <p>6 A. The message was delivered to a live person.</p> <p>7 Q. But there are many lines, for instance, line -- 8 well, a lot of these were answered. Well, for 9 instance, Soundbite no result, is there any way 10 of knowing whether or not a message was left?</p> <p>11 This is line sixty-seven I'm looking at.</p> <p>12 A. I see.</p> <p>13 Q. Can you tell whether or not a message was left?</p> <p>14 A. No, I cannot.</p> <p>15 Q. Okay. So you know which ones definitely a 16 message was left and the other ones you really 17 can't tell?</p> <p>18 A. You can't tell from the note line, no.</p> <p>19 Q. All right. And many of these say message 20 delivered to live person and then there's nothing 21 further. What would that indicate to you?</p> <p>22 A. That could have been -- I -- it's possible that 23 that could have been what we call an unattended</p>	<p>1 A. They are Soundbite.</p> <p>2 Q. They're called Soundbite?</p> <p>3 A. Yes.</p> <p>4 Q. And do they call from their telephone system?</p> <p>5 A. I don't know how that works to be honest with 6 you.</p> <p>7 Q. Okay. Who would know that?</p> <p>8 A. You could talk to either Lisa Stuart or Nathan 9 Anderson.</p> <p>10 Q. Okay.</p> <p>11 MR. BUSHWAY: Are they Firstsource people or --</p> <p>12 THE WITNESS: Yes. I don't know who their contact is 13 at Soundbite.</p> <p>14 BY MR. HILLER:</p> <p>15 Q. And what is Lisa Stuart's position?</p> <p>16 A. She's the manager of telecom.</p> <p>17 Q. And what is Nathan Anderson's --</p> <p>18 A. He is -- I believe his title is a data analyst, 19 but Soundbite is his, his process.</p> <p>20 Q. All right. Then on line eighty-three -- well, 21 eighty-two and eighty-three, can you tell me what 22 those entries mean?</p> <p>23 A. Okay. Eighty-two was the status and that was</p>

Page 102	Page 104
<p>1 active. And then it looks like we must have      2 scrubbed for a bankruptcy or we received      3 documentation of a bankruptcy. Yeah,      4 correspondence was received. So we canceled the      5 account. We changed the status from an active      6 account to a bankruptcy.</p> <p>7 Q. And where -- okay. And who did that, MG -- who      8 is MGU?</p> <p>9 A. MGU I do believe is Maria Guercio, and she is in      10 accounting.</p> <p>11 Q. So what is the process that should be undertaken      12 when Firstsource receives notice that a debtor      13 filed bankruptcy?</p> <p>14 A. Again, that would be Theresa Milbrath's area.      15 She handles the bankruptcies.</p> <p>16 Q. All right. So what do lines eighty-four and      17 eighty-five reveal?</p> <p>18 A. That reveals that we received correspondence, and      19 then it looks like Roberta Suida (phonetic), who      20 is RAB, documented that we -- an account was      21 already closed and forwarded to general counsel      22 for review.</p> <p>23 Q. When was the account closed?</p>	<p>1 bankruptcy, or the customer themselves. We would      2 status-code it with a bankruptcy and it would      3 prompt us for specific information like an      4 attorney's name, the number, the case number.      5 Things of that nature. And then client relations      6 would be alerted by that status, and they, again,      7 would be the ones to handle it from there.</p> <p>8 Q. When this notice of bankruptcy was received on      9 March 2nd, is there any indication that the      10 programming for Soundbite or Blaster was      11 terminated?</p> <p>12 A. Yeah, because you don't see it again.</p> <p>13 Q. But wouldn't there be a message sent to      14 discontinue it?</p> <p>15 A. You don't need to because it's all by status.</p> <p>16 Q. And what -- all right. Where does it say what      17 the status is?</p> <p>18 A. Right there. You can see that the status was      19 changed on March 2nd from active to bankruptcy.</p> <p>20 So ACT went to BKT.</p> <p>21 Q. What does ACT stand for?</p> <p>22 A. Active.</p> <p>23 Q. And BKT is actually a status entry?</p>
<p style="text-align: center;">Page 103</p> <p>1 A. It looks to me from the notes that it was closed      2 on March 2nd of 2007.</p> <p>3 Q. But there's no indication that -- there's no line      4 entry that actually says account closed?</p> <p>5 A. Well, it was canceled, so it was. If it's      6 canceled, it's closed.</p> <p>7 Q. All right. What are the asterisks in the      8 left-hand column? What do they designate?</p> <p>9 A. I don't know. That, that -- the asterisks, I      10 don't believe that those even show up in CUBS.      11 I've never seen them.</p> <p>12 Q. So do you know why the account would have      13 remained open for nine months after notice of the      14 bankruptcy was received?</p> <p>15 A. Again, that would be a Theresa Milbrath question.      16 I'm not sure why.</p> <p>17 Q. Well, in your job as operations manager, would      18 you close out files after notice of bankruptcy is      19 received?</p> <p>20 A. I probably would not. Operations does not close      21 accounts. We simply document what -- if, if --      22 let's say hypothetically we received a call from      23 an attorney that said that this person has filed</p>	<p style="text-align: center;">Page 105</p> <p>1 A. For bankruptcy, yes.</p> <p>2 Q. And automatically discontinues any further calls?</p> <p>3 A. Correct.</p> <p>4 MR. HILLER: I don't think I had this marked. If you      5 could mark this.</p> <p>6</p> <p>7 (Whereupon, a Collection Communications Log      8 was then received and marked as Plaintiff's      9 Exhibit 15, for identification.)</p> <p>10</p> <p>11 MR. BUSHWAY: I'd like the record to reflect that the      12 document that we're now viewing was provided      13 during the Plaintiffs' depositions which took      14 place yesterday, so this is not something that my      15 witness has had any opportunity to review. And,      16 obviously, any objections that we might have to      17 its disclosure, we'll deal with it at a later      18 time and not hold up the deposition.</p> <p>19 BY MR. HILLER:</p> <p>20 Q. I'm showing you what's been marked as Plaintiff's      21 Exhibit 15. And at yesterday's deposition, Ms.      22 Riley testified that that was a      23 contemporaneously-kept telephone log of calls she</p>

Page 106	Page 108
1 received in 2007. 2 A. Okay. 3 Q. The dates -- you can see the month and the date, 4 but she testified it was in 2007. 5 A. Okay. 6 Q. But those dates are not reflected on 7 Firstsource's records. There's no indication 8 that telephone calls were made on those dates. 9 There is -- Firstsource's records show no calls 10 made after March 2nd, 2007. Do you have any idea 11 how those calls could have possibly been made? 12 MR. BUSHWAY: Object to the form for one second. And 13 just so I'm clear, on the record, the date 14 column, are you representing that that is 2000 -- 15 what did you say? 16 MR. HILLER: Seven. 17 MR. BUSHWAY: Because they're not marked on there. 18 THE WITNESS: The only way that I can think that her 19 account -- her number could have been called is 20 if it was a number that was on an account maybe 21 from a different client that happened to be hers. 22 I don't know. 23 BY MR. HILLER:	1 this particular case numbered one through 2 eighty-six. Is it possible, for example, to 3 delete line eighty-one? 4 A. I would think that it's possible. Can I do it or 5 any member of operations? Absolutely not. 6 Q. It would have to be somebody higher in 7 management? 8 A. Maybe IT. I don't know. 9 Q. Who would know the answer to that question? 10 A. Chris Habschied. 11 Q. So in this account log for Donna Riley, there's 12 no indication that a telephone conversation ever 13 took place with Miss Riley or anyone else? 14 A. Let's take a look. No. 15 Q. Okay. I'm showing you Plaintiff's Exhibit 14. 16 A. Do you have a front page? 17 Q. I have it. 18 MR. BUSHWAY: She's saying there's a page missing 19 from what's been copied here, that there should 20 be -- this is off the record. 21 (Discussion off the record.) 22 BY MR. HILLER: 23 Q. I'm showing you what's been marked as exhibit --
Page 107	Page 109
1 Q. Okay. There's a phone number, there's a phone 2 number on this document, 888-46 -- 446-8517. Do 3 you know if that is an Account Solutions Group or 4 Firstsource telephone number? 5 A. I do not know. 6 Q. But your testimony is that there was no 7 collection phone calls made to Ms. Riley on this 8 particular Time Warner Cable account? 9 A. Correct. 10 Q. Is there any way that these calls could have been 11 made and not be reflected on the call log? 12 A. The only way for that to happen would be if a 13 collector themselves pulled up the account and 14 called the number and didn't document it. 15 Q. Okay. But if he did that, if a debt collector 16 did that, would it leave a voice -- could he 17 cause a voice-recorded message to be left? 18 A. No. 19 Q. And the debt collector can't send a message to 20 Soundbite and Blaster? Or Blaster. 21 A. No. 22 Q. Do you know if it's possible to delete any 23 entries in the notes? You know, the notes in	1 Plaintiff's Exhibit 14. Can you identify that 2 document? 3 A. Thomas Moltz. 4 Q. And it's his account record, correct? 5 A. Yes. 6 Q. And it was assigned to Firstsource on July 25th, 7 2007, correct? 8 A. Correct. 9 Q. And this and all the other accounts are for Time 10 Warner debts, correct? 11 A. Correct. 12 Q. And it states that eighty-six dollars and 13 twenty-five cents is owed on the account, 14 correct? 15 A. Correct. 16 Q. And I'd like you to go down to line twenty-five. 17 A. Okay. 18 Q. And can you tell me what lines twenty-five 19 through thirty say. 20 A. Okay. Line twenty-five was a Blaster campaign. 21 So what this tells me is that the, the customer, 22 whoever answered the phone, was on hold, you have a very important message, and before the message

Page 110	Page 112
1 could be delivered hung up the phone.	1 only one time.
2 Q. Okay.	2 Q. So you're not aware of ever programming Blaster
3 A. Again, that happened on the 22nd of August. And	3 to make more than one call a day?
4 then when you go down to line twenty-seven, some	4 A. I never have.
5 -- it looks like someone called in. I'm jumping	5 Q. But you can't say for sure that it never happens?
6 from eighty-two. It was the customer. The	6 A. I can't say for sure. I'm not sure.
7 caller ID was documented by Bobbi Jo Jermy. And	7 Q. And who is the operations manager for this file?
8 she demanded payment -- or requested, I should	8 A. Let me see. I'm going to assume it was myself.
9 say, payment in full, and no arrangement was made	9 Q. Oh, I think line ten says that.
10 because the customer refused the options that she	10 A. Judging from the dates, yeah.
11 gave. So that she -- it looks like she's	11 Q. That's you?
12 claiming that she doesn't owe anything -- or he	12 A. Because this would have been -- this would have
13 doesn't owe anything and don't call him again.	13 fit the time frame that I would have taken it
14 Q. So this was indicating that Mr. Moltz asked the	14 over. Yep, there it is. It was me.
15 debt collector to have Firstsource place no	15 Q. So given the fact that you have never done it,
16 further phone calls to him?	16 you did not program the Blaster to place more
17 A. Yes.	17 than one call a day?
18 Q. And obviously, after that, many calls were made	18 A. No.
19 to him, correct?	19 Q. And do you ever program Soundbite to make more
20 A. Correct.	20 than one call in a day?
21 Q. Was that consistent with Firstsource's policies?	21 A. In this particular case I'm not sure if I did or
22 A. Yes. We would have required that to be in	22 not, but, yes, I have in the past.
23 writing.	23 Q. You have. Okay. But I thought you said that the
Page 111	Page 113
1 Q. Okay. So that -- you testified earlier that	1 policy was not to call people more than one time
2 would be the policy that Time Warner provided to	2 per day.
3 Firstsource?	3 A. What we do is, we set it up on Soundbite. We can
4 A. Possibly. I -- again, I don't know what the	4 set it up for what's called multiple passes. So
5 contract states.	5 if the result is a no-answer or we have, we have
6 Q. Would you go to line thirty-three and tell me	6 designed it so that if we're leaving an automated
7 what that says?	7 message that it ends the call upon detection of a
8 A. Again, it was called by Blaster and the party	8 voice mail and not to leave it, we can run that
9 hung up.	9 number for another pass at a later time that day.
10 Q. And then can you tell me what line -- well, on	10 Q. Okay. All right. So could you tell me what
11 Blaster -- you probably answered this already --	11 lines thirty-four through forty-eight designate?
12 can you tell from a -- if there's a reference to	12 A. Okay. It looks like the customer called in to
13 a Blaster call whether it was one call or	13 our office and KKDU, which is Karen Duvall,
14 multiple calls?	14 answered that call. She documented a refusal on
15 A. On the note lines, I don't know if it was	15 the account. Apparently whoever she spoke with
16 reflected more -- the only time it's going to	16 yelled at her in a very threatening manner, felt
17 call it again is if we requested what's called	17 that he should not get calls because he told us
18 multiple passes. I have never known any managers	18 not to. She documented his caller ID. Told her
19 to do that. I don't even know if it's an option	19 that we were harassing him and he does not feel
20 to be honest with you. But when we request it,	20 he should pay because he already paid this at
21 we're the ones putting it on a template that we	21 another collection snTEX (sic) or something.
22 give to the dialer staff, and we just say here,	22 That it was hard to make out what he was saying
23 we want these blasted. When we do that, it was	23 because he was obnoxious. Extremely loud, would

Page 114	Page 116
1 not letter her explain anything and she could not 2 get a word in edgewise. 3 Q. Well, you're saying that's what was said. 4 A. Yes. 5 Q. But that's what her -- that's her account of the 6 conversation, correct? 7 A. Yes. This is what her notes reflect, yes. 8 Q. Right. And there was no automatic entry of this 9 call into the account log, correct? She had to 10 enter this? 11 A. Yes, she had to enter that. 12 Q. So I thought you said that if somebody called in 13 and the debt collector pulled the account file 14 that it automatically got entered into that 15 account file as an incoming call. Is that not 16 the case? 17 A. No. No, that is not the case. 18 Q. And is a -- then -- 19 A. I'm -- it comes into their phone. It's 20 documented. We can query for that by the phone 21 reports, not CUBS. 22 Q. Okay. So there's form reports that can document 23 all incoming calls?	1 that code identifies who they are. So when the, 2 when the phone number is queried, it shows whose 3 phone that routed to. 4 Q. And so, for instance, if Thomas Moltz called, 5 let's just say hypothetically, on September 5th 6 and there is no call logged here, but if this 7 debt collector answered that call, it would -- 8 the call log -- not the CUBS log, but the call 9 log would show that she received a call on that 10 time and date? 11 A. Correct. 12 MR. BUSHWAY: Well, let me clarify. You know, would 13 you be searching by Thomas Moltz or would you be 14 searching by a phone number that was used to call 15 into the system? 16 THE WITNESS: A phone number. 17 BY MR. HILLER: 18 Q. So could you search for Thomas Moltz's phone 19 number in this particular debt collector's 20 account to see if there's any receipts of phone 21 calls from him? 22 A. I -- we have the capability of doing that. 23 Whether we keep records that far back, I don't
Page 115	Page 117
1 A. Yes. 2 Q. What is that report called? 3 A. There is no name to the report. If I were to 4 request a query to be done on a phone -- a 5 specific phone number, I would have to open up 6 what's called an IT ticket for telecom to query 7 that number for me and they would provide me with 8 the results. 9 Q. And is the phone logs detailed to each particular 10 debt collector? 11 A. Yes. It would tell you who it -- who -- either 12 when they had ownership of it or where it was 13 routed, if it went to their phone. 14 Q. Does it print it out per account? 15 A. No, I don't think it gives any account specifics. 16 It just does it by phone number only. 17 Q. It shows the dates and times of all outgoing 18 calls and calls received by a debt collector, but 19 you can't tell from this who called or who they 20 called? 21 A. Yeah, we can tell who called because we know that 22 the collectors, when they come in, have to log 23 into their phones. They have a log-in code and	1 know. I don't know how far back we archive. 2 Q. All right. Could you tell me what lines 3 forty-nine to fifty-one designate? 4 A. Okay. So Karen Duvall, regarding the same call, 5 she simply added notes because she, she ended the 6 documentation but remembered something after the 7 fact that she wanted -- she felt was pertinent to 8 document. So she added notes and just said did 9 not verify address and Social Security and amount 10 because he would not allow her to get that much 11 information out. 12 Q. What does line fifty-seven mean? 13 A. A high-and-dry is -- that's a dialer term, and 14 that means that they got -- they experienced dead 15 air. 16 Q. And what does AMD mean in lines fifty-nine and 17 sixty? 18 A. I'm not -- I don't know what the acronym 19 specifically means, but it's an automatic -- I 20 think it's automatic dialer or automated dialer 21 message left. 22 Q. And where it says answered call, that means that 23 a -- what's the difference between answered call

Page 118	Page 120
1 and e-answer call?	1 parties, but the contact made by the collectors,
2 A. I don't know. It looks like there's an S too. I	2 whether it's on dialer or manual attempts. And
3 don't know what that means.	3 then the QA department goes through those calls
4 Q. But that all means that telephone calls were	4 and grades them. And they have to do -- I
5 made?	5 believe it's six calls per month per collector.
6 A. Correct. And answered.	6 Q. So you recall six calls per month as an audit of
7 Q. And in all of those, the person answering the	7 sorts to make sure that they're following
8 phone would have heard a voice-recorded message,	8 Firstsource's procedures?
9 correct?	9 A. Correct.
10 A. Correct. It could mean -- the difference with	10 Q. And are their calls recorded?
11 these codes, with the letter codes, it could be	11 A. Yes.
12 that when we run a campaign, whether -- well, no,	12 Q. Does Firstsource keep those records of the
13 it couldn't be in this case because we never had	13 recordings?
14 manned campaigns on this, so I'm not sure what	14 A. Yes. We do now. At the time that these calls
15 the difference between the E and the G is.	15 took place, we did not have that system.
16 Q. And the August 27, '07, according to this log, is	16 Q. Okay. So what was the system back then?
17 the last conversation that ever took place	17 A. The Q -- the quality assurance representatives
18 between Firstsource and the debtor, correct?	18 would actually have to look at what we call
19 A. Where are we now?	19 symposium where they would see the collector's
20 Q. Well, you just read lines forty-nine through	20 activity on the phone and look for a live contact
21 fifty-one.	21 and then monitor the call remotely from their
22 A. Yes.	22 phone.
23 Q. And this log doesn't show any further	23 Q. So they'd listen in on them?
Page 119	Page 121
1 communication -- conversations taking place,	1 A. Yes.
2 correct?	2 Q. Now, you testified earlier that the procedures
3 A. That is correct.	3 that Firstsource follows are at least partially
4 Q. And the account was closed on January 3rd, 2008?	4 dictated by the client when they collect on a
5 A. January 3rd, 2008, correct.	5 debt, is that correct?
6 Q. Okay. Does Firstsource have any procedures in	6 A. Correct.
7 place -- oh. At the time that the calls were	7 Q. Are those procedures put in writing?
8 made on these four accounts, did Firstsource have	8 A. I don't -- I'm not sure if they are or not. As
9 any procedures in place to insure that they did	9 far as -- I mean, do you have a specific --
10 not leave voice-recorded messages on cellular	10 Q. For example, if Time Warner wanted Firstsource to
11 telephones to people who did not consent to such	11 call people even though the debtor verbally
12 messages?	12 stated that they did not want any more phone
13 A. No.	13 calls and they had other policies for various
14 MR. HILLER: I think I'm almost done. I just want to	14 things that you might encounter in the collection
15 review my notes for about five minutes.	15 process, would they put that in writing?
16 MR. BUSHWAY: That's fine.	16 A. If it supersedes the FDCPA. If it went above and
17 (Whereupon, a short recess was then taken.)	17 beyond, yes. If it was sticking to the minimal
18 BY MR. HILLER:	18 guidelines of the FDCPA, then no.
19 Q. Can you tell me what procedures in place	19 Q. In other words, they might just say follow the
20 Firstsource has to monitor the debt collectors'	20 FDCPA?
21 activities that are employed by them?	21 A. Um-hum. Follow our own standards.
22 A. Okay. Presently we have a system called NICE	22 Q. Follow your own standards. And -- or might -- do
23 that records the right party. Or, not just right	23 they sometimes tell you to do things that violate

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Page 122	Page 123	Page 124
1 Firstsource's policies?		1 STATE OF NEW YORK)
2 A. No. We wouldn't do that.		2 SS:
3 Q. Okay. And they sometimes ask you to even be more		3 COUNTY OF ERIE)
4 careful than the FDCPA requires?		4
5 A. Absolutely.		5 I, Carla M. Glinski, a Notary Public in and
6 Q. And do you know if Time Warner had any specific		6 for the State of New York, County of Erie, DO
7 instructions beyond just follow the FDCPA?		7 HEREBY CERTIFY that the testimony of JESSICA
8 A. No, they did not.		8 AMBER WILTON was taken down by me in a verbatim
9 Q. They did not.		9 manner by means of Machine Shorthand, on January
10 A. No.		10 28, 2009. That the testimony was then reduced
11 Q. Okay. And I just want to -- I'm just drawing		11 into writing under my direction. That the
12 your attention back to Plaintiff's Exhibits 8,		12 testimony was taken to be used in the
13 10, 4 and 14, the four call logs we went over.		13 above-entitled action. That the said deponent,
14 Those are all records maintained by Firstsource		14 before examination, was duly sworn by me to
15 in their ordinary course of business, correct?		15 testify to the truth, the whole truth and nothing
16 A. Correct.		16 but the truth, relative to said action.
17 Q. And to the best of your knowledge, those are		17 I further CERTIFY that the above-described
18 true, unaltered copies of those logs, correct?		18 transcript constitutes a true and accurate and
19 A. That is correct.		19 complete transcript of the testimony.
20 MR. HILLER: I don't think I have any further		20
21 questions. Thank you for your time.		21
22 THE WITNESS: Okay.		22
23 * * * * *		23
	Page 123	
1 I HEREBY CERTIFY that I have read the		
2 foregoing 122 pages and that, except as to those		
3 changes set forth in the attached errata form(s),		
4 they are a true and accurate transcript of the		
5 testimony given by me in the above-entitled		
6 action on January 28, 2009.		
7		
8		
9		
10		
11 JESSICA AMBER WILTON		
12		
13		
14 Sworn to before me this		
15		
16 _____ day of _____ 2009.		
17		
18		
19		
20 Notary Public.		
21		
22		
23		



answering - client

65:9 70:20 79:17  
 99:8 109:22 111:11  
 113:14 116:7 117:22  
 117:23 118:6  
**answering** [4] 21:19  
 61:13 80:21 118:7  
**answers** [7] 21:11  
 21:18 21:19 29:17  
 29:20 30:10 42:10  
**apologize** [2] 31:16  
 41:16  
**APPEARANCES** [1] 4:1  
**appearing** [3] 4:5  
 4:8 21:7  
**application** [1] 20:20  
**apply** [1] 43:14  
**appropriate** [1] 41:2  
**approximate** [1] 14:6  
**April** [1] 82:8  
**archive** [1] 117:1  
**area** [1] 102:14  
**arrangement** [1] 110:9  
**ASG** [1] 19:19  
**Ashley** [1] 83:23  
**assign** [1] 17:23  
**assigned** [12] 8:16  
 22:7 23:12 24:14  
 48:21 48:23 49:5  
 51:3 74:17 74:20  
 97:9 109:6  
**assigning** [1] 23:20  
**assignment** [1] 74:23  
**assigns** [3] 22:20  
 23:14 23:17  
**assume** [4] 18:16  
 36:18 51:8 112:8  
**assumed** [1] 75:5  
**assuming** [1] 68:8  
**assurance** [2] 37:3  
 120:17  
**asterisks** [2] 103:7  
 103:9  
**attached** [1] 123:3  
**attempt** [4] 34:1  
 70:16 82:22 92:18  
**attempted** [1] 33:23  
**attempting** [2] 38:14  
 41:2  
**attempts** [6] 14:12  
 14:14 14:16 37:18  
 70:13 120:2  
**attention** [4] 27:13  
 27:14 91:9 122:12  
**attorney** [2] 21:13  
 103:23  
**attorney's** [1] 104:4  
**audit** [1] 120:6  
**August** [2] 110:3  
 118:16  
**auspices** [1] 97:19  
**authorized** [1] 18:17

**auto** [1] 87:9  
**automated** [23] 25:17  
 29:3 29:8 29:21  
 30:12 30:19 31:8  
 31:22 32:3 59:3  
 60:17 61:10 61:18  
 62:20 69:3 69:9  
 79:4 80:5 80:16  
 98:20 98:23 113:6  
 117:20  
**automatic** [5] 72:11  
 72:15 114:8 117:19  
 117:20  
**automatically** [10] 22:12 27:6 30:5  
 71:11 73:6 90:18  
 91:1 92:12 105:2  
 114:14  
**automation** [2] 14:17  
 79:12  
**available** [5] 20:9  
 24:23 29:18 40:15  
 79:1  
**Avenue** [3] 4:3  
 55:15 56:3  
**aware** [8] 10:14  
 11:3 21:3 40:19  
 44:12 73:18 73:19  
 112:2

**-B-**

**B** [1] 6:16  
**back** [27] 14:2  
 17:15 17:18 29:14  
 31:23 40:10 40:11  
 62:11 65:6 69:20  
 69:21 70:6 79:23  
 83:18 83:20 83:21  
 86:14 88:10 89:13  
 90:11 92:2 93:18  
 96:9 116:23 117:1  
 120:16 122:12  
**backwards** [1] 60:14  
**Bailey** [1] 4:3  
**balance** [6] 25:9  
 26:5 89:5 91:16  
 92:12 93:16  
**balances** [1] 26:8  
**Banco** [1] 53:16  
**banking** [1] 10:20  
**bankruptcies** [1] 102:15  
**bankruptcy** [12] 53:14 102:2 102:3  
 102:6 102:13 103:14  
 103:18 104:1 104:2  
 104:8 104:19 105:1  
**Barbara** [2] 94:20  
 97:17  
**based** [4] 27:7  
 32:13 70:19 71:18  
**bearing** [2] 75:17  
 75:17  
**bears** [1] 49:21  
**becomes** [1] 25:2  
**began** [2] 11:11

**CondenseIt!**™

Starkey, et al vs. Firstsource

12:21  
**begin** [1] 50:11  
**behalf** [2] 21:20  
 46:20  
**best** [2] 7:3 122:17  
**between** [8] 4:12  
 17:2 46:5 64:10  
 79:9 117:23 118:15  
 118:18  
**beyond** [2] 121:17  
 122:7  
**BFSI** [3] 10:17 10:19  
 10:20  
**bifurcated** [1] 7:8  
**Bill** [4] 89:6 89:6  
 90:21 96:4  
**billed** [1] 43:5  
**bit** [2] 10:12 40:10  
**BKT** [2] 104:20 104:23  
**blasted** [1] 111:23  
**Blaster** [24] 29:9  
 30:19 30:22 31:18  
 31:19 32:6 32:12  
 33:13 34:16 34:23  
 63:11 63:13 65:5  
 73:5 100:2 104:10  
 107:20 107:20 109:20  
 111:8 111:11 111:13  
 112:2 112:16

**-B-**

**Blasters** [1] 67:9  
**block** [1] 7:4  
**Bobbi** [1] 110:7  
**Borgese** [2] 4:2  
 97:2  
**box** [1] 81:1  
**brand-new** [1] 25:3  
**break** [2] 96:19  
 96:22  
**brings** [1] 22:12  
**broke** [1] 82:9  
**Buffalo** [1] 4:7  
**Building** [1] 4:7  
**Bushway** [55] 4:6  
 6:22 7:9 12:6  
 14:2 14:18 17:5  
 17:17 18:8 21:15  
 22:15 30:22 38:21  
 39:20 40:6 43:22  
 44:17 45:13 46:9  
 46:18 47:1 47:11  
 49:11 50:9 57:5  
 57:8 60:22 64:9  
 64:14 66:4 67:14  
 68:12 70:19 73:15  
 74:6 74:8 75:6  
 75:13 76:20 77:6  
 78:10 78:15 95:5  
 95:11 96:20 96:23  
 98:4 98:12 101:11  
 105:11 106:12 106:17  
 108:18 116:12 119:16  
**business** [9] 10:12  
 15:10 17:8 24:10  
 24:12 32:15 50:23  
 53:1 122:15  
**button** [3] 28:20

31:12 79:7  
**-C-**  
**C** [5] 4:6 6:16  
 69:23 77:8 78:11  
**C-I-G-A-N-K-O** [1] 35:13  
**Cable** [9] 16:10  
 16:23 46:2 47:17  
 48:5 55:7 71:22  
 94:21 107:8  
**calendar** [1] 95:6  
**call-back** [1] 100:3  
**caller** [5] 81:18  
 81:19 84:15 110:7  
 113:18  
**calls** [62] 13:23  
 28:16 28:17 29:3  
 29:5 29:7 32:6  
 32:11 33:18 34:5  
 34:19 38:16 38:17  
 39:12 39:18 41:6  
 42:9 43:8 44:8  
 52:12 52:15 52:17  
 57:2 61:17 62:16  
 62:18 65:8 67:21  
 68:21 69:17 70:12  
 71:4 71:8 73:1  
 73:2 73:6 73:8  
 73:22 100:10 105:2  
 105:23 106:8 106:9  
 106:11 107:7 107:10  
 110:16 110:18 111:14  
 113:17 114:23 115:18  
 115:18 116:21 118:4  
 119:7 120:3 120:5  
 120:6 120:10 120:14  
 121:13  
**campaign** [3] 100:1  
 109:20 118:12  
**campaigns** [1] 118:14  
**canceled** [7] 69:23  
 70:5 95:6 96:12  
 102:4 103:5 103:6  
**cancellation** [1]  
**Bushway** [55] 4:6  
 6:22 7:9 12:6  
 14:2 14:18 17:5  
 17:17 18:8 21:15  
 22:15 30:22 38:21  
 39:20 40:6 43:22  
 44:17 45:13 46:9  
 46:18 47:1 47:11  
 49:11 50:9 57:5  
 57:8 60:22 64:9  
 64:14 66:4 67:14  
 68:12 70:19 73:15  
 74:6 74:8 75:6  
 75:13 76:20 77:6  
 78:10 78:15 95:5  
 95:11 96:20 96:23  
 98:4 98:12 101:11  
 105:11 106:12 106:17  
 108:18 116:12 119:16  
**business** [9] 10:12  
 15:10 17:8 24:10  
 24:12 32:15 50:23  
 53:1 122:15  
**button** [3] 28:20

14:19 46:17  
**category** [1] 10:21  
**caught** [2] 96:8  
 96:11  
**cease** [1] 39:11  
**cease-and-desist** [1] 39:2  
**cell** [2] 44:7 68:1  
**cellular** [3] 67:20  
 68:19 119:10  
**center** [2] 13:19  
 14:20  
**centers** [2] 13:14  
 13:17  
**cents** [7] 48:17 74:15  
 84:23 85:2 93:15  
 97:13 109:13  
**certain** [9] 13:18  
 16:15 31:7 43:19  
 45:8 50:3 53:17  
 57:4 64:5  
**certainly** [4] 17:23  
 18:20 70:23 77:23  
**certification** [1] 4:14  
**CERTIFY** [3] 123:1  
 124:7 124:17  
**cetera** [1] 54:11  
**change** [5] 56:21  
 78:3 91:6 91:7  
 97:21  
**changed** [12] 48:7  
 48:12 49:7 49:10  
 76:13 78:7 90:10  
 90:11 96:5 96:9  
 102:5 104:19  
**changeover** [1] 12:19  
**changes** [1] 123:3  
**charge** [4] 36:18  
 37:3 37:4 37:9  
**check** [9] 81:1  
 85:14 85:15 85:16  
 85:16 85:22 86:19  
 87:6 88:20  
**checking** [1] 26:7  
**checks** [2] 85:19  
 88:8  
**chose** [1] 57:22  
**Chris** [1] 108:10  
**Christopher** [4] 19:7  
 19:9 19:18 68:5  
**Ciganko** [2] 35:11  
 36:9  
**circumstances** [1] 54:15  
**claiming** [1] 110:12  
**clarify** [3] 22:20  
 76:21 116:12  
**class** [1] 33:2  
**clear** [4] 47:13 74:9  
 77:16 106:13  
**client** [26] 9:15  
 16:4 26:6 28:4  
 38:22 39:10 41:5  
 43:12 47:16 70:6

Starkey, et al vs. Firstsource

CondenseIt!™

client's - depositing

71:20	75:1	88:1	collector's [4]	77:23	containing [1]	36:2	118:9	118:10	118:18	dates [5]	106:3	106:6
88:2	91:17	92:1	91:5	116:19	120:19	contemporaneously-kept [1]	105:23	119:2	119:3	119:5	106:8	112:10
92:17	92:21	93:17	collectors [20]	13:15	content [1]	35:9	120:9	121:5	121:6	day-end [4]	30:8	115:17
94:8	94:9	94:12	13:22	14:13	14:15	continue [1]	37:22	122:15	122:16	122:18	59:6	63:8
94:16	104:5	106:21	14:17	27:19	35:2	continuing [1]	39:23	122:19			80:9	
121:4			35:17	36:2	36:15	contract [10]	16:15				days [2]	93:2
client's [1]	93:13		38:19	40:20	43:8	correspondence [2]	102:4	102:18			dead [2]	79:12
client-specific [2]			44:7	44:13	70:13	corrected [1]	90:17				deal [2]	41:9
91:22	94:7		82:17	83:2	115:22	correctly [1]	75:16				dealing [1]	42:9
clients [6]	8:15		120:1			debt [41]	10:13				debt-collection [1]	
38:23	39:1	39:3	collectors' [2]	37:9		debtor [33]	14:19				debtors [5]	16:6
39:7	92:19		119:20			criteria [3]	27:7				debtors [5]	22:3
close [9]	88:1	91:21	collects [1]	10:9		corporate [7]	12:7				debtors [5]	29:3
92:15	95:15	96:3	colon [2]	50:18		corporate [7]	12:7				debtors [5]	84:7
96:12	96:15	103:18	51:17			copies [1]	122:18				debtors [5]	84:7
103:20			COLUCCI [1]	4:6		copy [3]	17:11	17:17			debtors [5]	84:7
closed [9]	70:5		Columbia [1]	15:10		correct [134]	9:3				debtors [5]	84:7
87:19	92:20	102:21	column [4]	75:20		correct [134]	9:3				debtors [5]	84:7
102:23	103:1	103:4	88:12	103:8	106:14	com	10:1				debtors [5]	84:7
103:6	119:4		combined [1]	30:23		com	10:1				debtors [5]	84:7
closing [2]	87:20		coming [1]	91:11		com	10:1				debtors [5]	84:7
91:20			committed [1]	73:12		com	10:1				debtors [5]	84:7
closure [3]	92:7		communication [3]	82:17	100:18	com	10:1				debtors [5]	84:7
92:9	95:12		Communications [3]	3:4	105:7	com	10:1				debtors [5]	84:7
coach [1]	10:9		company [11]	11:5		com	10:1				debtors [5]	84:7
code [8]	59:3	90:2	11:20	18:21	37:23	com	10:1				debtors [5]	84:7
90:7	90:8	91:11	42:21	44:1	46:21	com	10:1				debtors [5]	84:7
92:13	115:23	116:1	53:11	84:1	86:8	com	10:1				debtors [5]	84:7
codes [3]	94:8		100:11			com	10:1				debtors [5]	84:7
118:11	118:11		complained [1]	91:10		com	10:1				debtors [5]	84:7
collect [11]	13:15		complete [3]	70:17		com	10:1				debtors [5]	84:7
14:12	22:21	28:18	83:16	124:19		com	10:1				debtors [5]	84:7
37:22	38:15	41:2	completed [1]	88:9		com	10:1				debtors [5]	84:7
58:4	70:13	82:22	36:19	37:10	37:18	com	10:1				debtors [5]	84:7
121:4			compliance [4]	36:18		com	10:1				debtors [5]	84:7
collectable [2]	33:3		36:19	37:10	37:18	com	10:1				debtors [5]	84:7
33:9			complies [2]	39:18		com	10:1				debtors [5]	84:7
collected [1]	14:11		40:2			com	10:1				debtors [5]	84:7
collection [30]	2:5		comply [2]	36:4		com	10:1				debtors [5]	84:7
3:4	4:19	8:5	39:13			com	10:1				debtors [5]	84:7
9:16	10:13	11:2	computer [5]	23:6		com	10:1				debtors [5]	84:7
13:23	15:6	15:20	23:20	72:4	96:8	com	10:1				debtors [5]	84:7
22:5	25:10	26:12	98:9			com	10:1				debtors [5]	84:7
26:21	28:7	28:13	concerning [1]	22:2		com	10:1				debtors [5]	84:7
28:14	30:3	34:13	66:2	67:19	68:1	com	10:1				debtors [5]	84:7
35:19	36:3	37:13	69:1	70:1	71:1	com	10:1				debtors [5]	84:7
38:17	44:8	75:4	71:1	72:1	73:1	com	10:1				debtors [5]	84:7
76:11	105:7	107:7	73:1	74:1	75:1	com	10:1				debtors [5]	84:7
113:21	121:14		75:2	76:1	77:1	com	10:1				debtors [5]	84:7
collections [2]	11:10		77:3	78:1	79:1	com	10:1				debtors [5]	84:7
16:10			79:2	80:1	81:7	com	10:1				debtors [5]	84:7
collector [50]	22:8		80:2	81:8	82:1	com	10:1				debtors [5]	84:7
22:15	24:12	24:15	81:9	82:1	83:11	com	10:1				debtors [5]	84:7
26:18	27:11	27:18	82:10	83:11	84:1	com	10:1				debtors [5]	84:7
27:18	28:6	28:11	83:12	85:13	87:12	com	10:1				debtors [5]	84:7
29:5	29:15	29:18	84:13	85:13	87:12	com	10:1				debtors [5]	84:7
30:14	31:10	31:14	85:14	85:15	90:16	com	10:1				debtors [5]	84:7
31:15	31:21	37:22	86:1	87:1	97:10	com	10:1				debtors [5]	84:7
38:2	41:6	43:23	86:2	87:1	97:10	com	10:1				debtors [5]	84:7
57:20	58:5	58:8	87:2	88:1	98:14	com	10:1				debtors [5]	84:7
59:2	60:15	62:19	88:2	89:1	98:14	com	10:1				debtors [5]	84:7
63:3	71:14	72:3	89:2	90:1	98:15	com	10:1				debtors [5]	84:7
72:21	79:1	81:17	90:1	91:1	98:15	com	10:1				debtors [5]	84:7
82:13	83:8	83:16	91:1	92:1	99:5	com	10:1				debtors [5]	84:7
88:14	89:14	90:1	92:1	93:1	100:6	com	10:1				debtors [5]	84:7
100:2	107:13	107:15	93:1	94:1	100:6	com	10:1				debtors [5]	84:7
107:19	110:15	114:13	94:1	95:1	100:6	com	10:1				debtors [5]	84:7
115:10	115:18	116:7	95:1	96:1	100:6	com	10:1				debtors [5]	84:7
120:5			96:1	97:1	100:6	com	10:1				debtors [5]	84:7

## deposition - first

## CondenseIt!™

## Starkey, et al vs. Firstsource

deposition [6] 8:1 8:4 21:12 21:13 105:18 105:21	discontinue [1] 104:14 discontinues [1] 105:2	drawing [1] 122:11 dropped [1] 57:11 due [1] 90:13 duly [2] 6:19 124:14 dunning [3] 25:15 26:11 55:21 duplicate [1] 63:7 during [1] 105:13 duties [2] 18:2 37:11	56:12 114:10 114:11 entered [2] 4:10 114:14 enters [1] 24:3 entity [1] 75:3 entries [4] 50:2 52:17 101:22 107:23 entry [7] 33:17 56:8 72:11 72:15 103:4 104:23 114:8 erased [1] 100:20 Erie [2] 124:3 124:6 errata [1] 123:3 error [2] 89:7 89:17 ESQ [3] 4:2 4:2 4:6	fact [15] 41:19 42:2 46:20 51:23 51:23 52:10 53:9 60:18 71:7 73:1 75:9 83:3 85:11 112:15 117:7 failed [1] 38:8 Fair [3] 35:18 36:3 37:13 falls [1] 10:21 familiar [2] 21:4 21:23 far [5] 10:21 72:21 116:23 117:1 121:9 fashion [1] 23:3 Fastdata [13] 52:21 53:1 53:8 53:15 53:17 53:18 53:22 53:23 54:3 54:8 54:14 55:2 55:5 fax [1] 65:15 FDCPA [11] 36:14 37:11 37:13 37:18 39:19 40:3 121:16 121:18 121:20 122:4 122:7 February [1] 60:23 felt [2] 113:16 117:7 few [1] 9:9 fifteen [1] 86:23 fifteen-minute [1] 96:22 fifty [5] 82:8 84:22 86:19 87:8 87:10 fifty-nine [1] 117:16 fifty-one [3] 80:17 117:3 118:21 fifty-seven [1] 117:12 fifty-two [1] 80:6 figure [1] 14:4 file [34] 2:8 2:15 2:19 3:2 5:4 5:16 5:22 6:11 25:19 26:18 26:21 27:12 27:18 33:1 44:22 53:21 53:22 56:17 56:18 74:23 56:17 56:18 74:23 75:22 84:9 85:22 87:19 87:20 91:8 91:15 91:20 93:1 100:14 100:15 112:7 114:13 114:15 filed [3] 53:14 102:13 103:23 files [10] 24:13 28:7 30:9 32:19 32:21 33:2 33:3 93:7 100:19 103:18 filing [2] 4:14 12:8 final [1] 92:7 finances [1] 10:20 fine [1] 119:16 first [32] 2:7 2:10 2:12 2:14 2:17 2:20 2:22 3:1
depositions [1] 105:13	discontinued [1]	drawing [1] 122:11	56:12 114:10 114:11	fact [15] 41:19 42:2
deputy [1] 13:13	discontinues [1]	dropped [1] 57:11	46:20 51:23 51:23	
describe [2] 42:17 91:19	discovery [1] 40:12	due [1] 90:13	52:10 53:9 60:18	
designate [4] 83:12 103:8 113:11 117:3	discuss [1] 46:21	duly [2] 6:19 124:14	71:7 73:1 75:9	
designated [4] 33:14 47:10 56:8 71:20	discussed [1] 82:3	dunning [3] 25:15	83:3 85:11 112:15	
designates [1] 61:7	Discussion [2] 74:11	duplicate [1] 63:7	117:7	
designation [3] 33:12 34:3 64:18	108:21	during [1] 105:13	failed [1] 38:8	
designed [3] 92:12 96:10 113:6	distributed [2] 26:21	duties [2] 18:2	Fair [3] 35:18 36:3	
desist [1]	28:10	Duval [2] 113:13	37:13	
desk [30] 24:10 24:10 24:13 26:19 27:5 27:11 27:19	distributing [1] 24:12	-E-	falls [1] 10:21	
28:3 28:5 28:8 50:20 50:21 50:23 51:1 51:3 75:20 75:23 76:1 86:3 86:5 90:21 90:21 90:22 91:6 91:7 91:21 92:6 92:10 92:17 95:23	distribution [1] 27:2	E [3] 6:16 6:16	familiar [2] 21:4	
desks [1] 27:3	document [20] 18:10	118:15	21:23	
detailed [1] 115:9	documenting [1]	e-answer [1] 118:1	far [5] 10:21 72:21	
details [1] 71:1	77:12	E-answered [4] 63:10	116:23 117:1 121:9	
detection [1] 113:7	documentation [2]	63:17 64:10 64:14	fashion [1] 23:3	
determine [3] 30:4 34:19 98:22	102:3 117:6	e-mail [3] 68:15	Fastdata [13] 52:21	
determined [4] 26:2 26:3 32:11 51:12	documented [8]	68:18 93:20	53:1 53:8 53:15	
determines [1] 32:13	82:4 87:14 87:16	East [1] 6:17	53:17 53:18 53:22	
develop [1] 10:9	102:20 110:7 113:14	Ed [1] 46:1	53:23 54:3 54:8	
device [1] 53:11	113:18 114:20	edgewise [1] 114:2	54:14 55:2 55:5	
devices [1] 29:8	documenting [2]	efforts [1] 69:19	fax [1] 65:15	
dialer [7] 29:10 64:7 111:22 117:13 117:20 117:20 120:2	70:12 84:6	eight [4] 50:18 50:20	FDCPA [11] 36:14	
dialer-specific [1] 64:6	documents [15] 2:11	eighteen [2] 84:23	37:11 37:13 37:18	
dictate [1] 92:9	2:13 2:18 2:23	85:2	39:19 40:3 121:16	
dictated [1] 121:4	5:8 5:11 5:20	eighteen-o-one [1]	121:18 121:20 122:4	
dictates [1] 93:13	6:6 8:3 8:6	66:8	122:7	
differ [2] 27:15 31:17	30:5 34:1 60:16	eighty-five [1] 102:17	February [1] 60:23	
difference [4] 64:10 117:23 118:10 118:15	60:17 85:14	eighty-four [2] 66:6	felt [2] 113:16 117:7	
different [4] 27:22 66:19 98:1 106:21	doesn't [18]	102:16	few [1] 9:9	
differently [1] 56:11	19:7	eighty-one [1] 108:3	fifteen [1] 86:23	
digits [1] 41:23	27:17 28:6 31:20	eighty-six [3] 74:14	fifteen-minute [1]	
direct [1] 56:14	42:4 43:16 62:5	108:2 109:12	96:22	
directed [1] 38:20	64:2 66:10 66:12	eighty-three [3] 66:4	fifty [5] 82:8 84:22	
direction [1] 124:11	75:13 88:23 91:4	101:20 101:21	86:19 87:8 87:10	
director [1] 16:4	91:5 92:9 110:12	eighty-two [3] 101:21	fifty-nine [1] 117:16	
disconnected [7]	110:13 118:23	101:23 110:6	fifty-one [3] 80:17	
43:18 54:20 65:20 65:22 66:3 66:11	dollars [11]	either [6] 24:12	117:3 118:21	
drafted [1]	26:9	43:13 82:15 83:7	fifty-seven [1] 117:12	
done [14]	48:17 74:15 82:8	eleven [2] 86:11	fifty-two [1] 80:6	
down [9]	84:22 84:23 85:1	eliminate [1] 7:9	figure [1] 14:4	
done [14]	86:19 87:10 97:12	elsewhere [2] 73:12	file [34] 2:8 2:15	
done [14]	109:12	employed [9] 8:9	2:19 3:2 5:4	
down [9]	14:12	8:10 8:19 11:19	5:16 5:22 6:11	
done [14]	21:6 25:10 27:12	13:23 40:23 43:23	25:19 26:18 26:21	
done [14]	36:13 44:13 77:2	84:1 119:21	27:12 27:18 33:1	
done [14]	77:13 89:21 91:1	employees [1] 15:2	44:22 53:21 53:22	
done [14]	96:20 112:15 115:4	employment [3] 8:22 11:11 38:9	56:17 56:18 74:23	
done [14]	119:14	encounter [1] 121:14	75:22 84:9 85:22	
done [14]	97:6 108:11	end [3] 69:17 95:6	87:19 87:20 91:8	
done [14]	49:4	95:9	91:15 91:20 93:1	
done [14]	50:1 63:17 65:12	ended [1] 117:5	100:14 100:15 112:7	
done [14]	68:8 81:12 109:16	ends [2] 69:19 113:7	114:13 114:15	
done [14]	110:4 124:8	ensues [1] 28:11	filed [3] 53:14 102:13	
done [14]	18:11	enter [5] 22:6 22:12	103:23	

5:1	5:7	5:10	17:5	18:8	38:21	gone [1]	59:7	66:15	67:17	68:14	implementing [1]
5:13	5:19	6:2	39:4	39:20	46:9	Gosh [1]	95:2	68:17	70:21	73:17	27:7
6:5	6:8	21:6	46:18	73:15	75:6	grab [1]	28:8	74:7	74:12	75:7	important [2]
22:13	22:22	24:7	106:12	114:22	123:3	grades [1]		75:19	77:5	78:5	67:7
25:12	41:11	42:6	forth [2]	17:18	123:3	Grand [1]	120:4	78:17	95:10	95:13	109:23
50:9	51:2	55:23	forty [2]	51:17	80:3	Group [23]	11:6	96:19	96:21	97:3	inbound [2]
59:9	59:10	60:13	forty-eight [1]		113:11	11:13	11:16	98:16	101:14	105:4	81:18
60:13	75:20	88:10	forty-nine [2]		117:3	12:13	12:17	105:19	106:16	106:23	inclusive [1]
<b>Firstsource [92]</b>			118:20			15:2	15:3	108:22	116:17	119:14	incoming [8]
9:2	9:4	9:6	forty-seven [2]		48:17	15:18	16:7	119:18	122:20		71:8
9:20	10:11	11:4	70:1			16:23	17:3	12:22			71:16
11:7	11:12	11:15	forwarded [1]		102:21	74:20	75:3	13:7			72:19
12:12	12:15	13:14	found [1]		55:8	97:19	98:1	13:18			73:1
14:1	15:1	15:5	four [17]	2:15	5:16	98:5		14:23			84:14
15:17	15:19	16:7	7:1	7:2	7:10	107:3					114:15
16:12	17:8	18:21	7:15	14:8	14:8	Guercio [1]	102:9	himself [1]	37:16		inconvenience [1]
19:11	19:13	19:19	14:10	14:19	41:23	guide [1]	19:13	history [1]	76:17		41:16
20:18	21:8	22:1	54:10	76:23	95:23	guidelines [1]	121:18	hit [3]	22:8	22:11	incorrect [1]
22:21	22:22	23:6	95:23	119:8	122:13			28:19			55:15
23:17	24:7	32:8	fourteen [5]		17:22			hold [9]	31:3	45:5	incurred [1]
35:2	36:20	37:17	51:17	86:23	87:1			62:21	67:3	69:2	INDEX [1]
38:10	38:14	38:15	87:8					79:4	79:7	105:18	2:1
39:6	39:10	39:13	frame [1]		112:13			109:22			India-based [1]
39:15	39:17	39:23	frames [1]		92:4	Habschied [4]	19:8	holding [2]	67:4		11:8
41:1	41:18	42:22	FRANK [1]		92:4	19:18	68:5	78:23			indicate [8]
43:5	43:10	43:11	fraternal [1]		4:2	108:10		home [1]	59:7		17:1
43:23	44:6	45:9	fraudulent [1]		73:13	half [1]	96:1	honest [2]	101:5		56:7
45:13	45:17	46:4	front [2]	43:16	108:16	handing [1]	17:18	honor [1]	39:11		76:8
46:7	46:16	47:2	FTCP [3]		68:12	handled [1]	71:16	hopefully [2]	38:6		82:2
49:1	49:10	53:22	FTP [2]	68:8	68:10	handles [1]	102:15	110:14			82:15
54:3	55:10	67:23	full [23]	82:6	83:16	handling [1]	94:14	hours [1]	25:16		99:21
69:11	70:8	70:11	84:20	87:17	87:22	hang [1]	74:4	HU [1]	67:3		indicates [1]
73:11	75:5	75:11	88:2	88:4	90:5	happening [1]	76:9	human [1]	35:7		98:17
87:13	93:5	97:22	90:11	90:13	90:13	harassing [1]	113:19	hundred [12]	14:8		indicating [5]
100:11	100:19	101:11	90:14	91:12	91:19	hard [1]	113:22	14:8	14:8		33:12
102:12	107:4	109:6	93:3	93:15	94:2	heading [2]	49:11	14:8	48:16		57:2
110:15	111:3	118:18	94:4	95:17	96:6	67:14		14:18	64:3		67:19
119:6	119:8	119:20	96:12	100:21	110:9	healey [2]	94:20	16:18	64:4		73:20
120:12	121:3	121:10	fully [1]	84:6		97:17		16:21	74:14		75:8
122:14			future [2]		21:18	health [3]	10:17	hung [9]	58:6	103:3	104:9
<b>Firstsource's [13]</b>			55:13			10:22	35:6	61:16			106:7
<b>Firstsource/Account</b>						116:5		67:4	69:2		108:12
[1]								79:3	79:14	110:1	individual [6]
98:4								111:9			24:15
fit [1]											33:14
five [8]											41:19
five-eighteen [3]											42:10
five-thirteen [2]											47:12
flow [1]											individually [1]
follow [7]											22:16
followed [2]											individuals [1]
following [2]											45:22
follows [2]											influence [1]
footnoted [1]											77:23
foregoing [1]											information [24]
form [13]											18:17
G [3]											19:21
GALLAHER [1]											20:12
GC [1]											21:1
general [10]											22:23
given [6]											23:4
globally [2]											32:22
goes [3]											36:2
highest [1]											49:9
Hiller [66]											53:3
immediately [5]											53:5
impair [1]											55:6
implement [1]											82:23
implemented [1]											88:19
insure [4]											89:8
instead [3]											89:13
intend [1]											104:3
instruction [1]											117:11
instructions [1]											informed [2]
insure [4]											39:17
instructions [1]											82:13
intends [1]											38:15
intended [1]											39:10
intending [1]											48:1
intends [1]											19:22
intended [1]											22:6
intends [1]											22:7
intended [1]											50:22
intends [1]											75:23
intended [1]											82:11
intends [1]											instance [6]
intended [1]											58:5
intends [1]											93:1
intended [1]											99:7
intends [1]											116:4
intended [1]											instances [1]
intended [1]											44:12
intended [1]											instead [3]
intended [1]											17:18
intended [1]											78:11
intended [1]											89:14
intended [1]											instruction [1]
intended [1]											81:3
intended [1]											instructions [1]
intended [1]											122:7
intended [1]											insure [4]
intended [1]											37:18
intended [1]											41:1
intended [1]											93:6
intended [1]											119:9
intended [1]											intend [1]
intended [1]											45:18

## Internet - mess

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## **Starkey, et al vs. Firstsource**

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message - original

<b>message</b> [50]	29:21	47:19	49:21	73:12	<b>NML</b> [2]	61:15	55:18	57:17	57:22	67:14	69:1	69:7
30:2	30:4	30:12	73:21	74:1	61:17		65:6	65:22	66:20	69:23	70:3	70:4
30:19	31:22	32:3	<b>morning</b> [1]	7:23	<b>no-answer</b> [5]	59:5	67:9	67:11	67:16	71:7	72:2	74:14
58:9	59:5	61:10	<b>move</b> [1]	44:15	59:15	60:4	61:23	70:16	71:19	71:22	77:1	79:7
61:11	61:15	61:18	<b>moved</b> [4]	25:23	113:5		76:13	76:15	76:16	84:11	84:12	86:1
61:22	62:6	62:20	50:23	86:2	92:10	<b>no-result</b> [2]	57:10	77:19	77:22	78:1	86:11	86:16
63:13	63:15	63:23	<b>moves</b> [1]	25:14	62:12		78:2	78:4	78:7	86:21	86:22	86:23
65:3	65:10	67:3	<b>MSD</b> [2]	86:3	<b>nobody</b> [2]	29:20	78:11	78:21	84:15	86:23	87:1	87:3
67:5	69:2	69:3	86:5		91:14		84:16	85:4	85:14	89:4	90:19	92:10
69:9	69:10	69:18	<b>multiple</b> [5]	33:18	<b>normal</b> [1]	60:1	93:7	100:3	104:4	94:3	95:14	106:12
79:4	79:23	80:5	34:5	111:14	111:18	<b>North</b> [2]	4:3	104:4	106:19	106:20	108:1	111:13
80:20	81:1	81:10	113:4		35:15		107:1	107:2	107:4	112:3	112:17	112:20
98:17	98:20	98:23	<b>must</b> [3]	38:4	76:18	<b>Notary</b> [3]	123:20	115:7	115:16	116:2		
99:6	99:10	99:13	102:1			124:5	124:22	116:14	116:16	116:19	<b>one-eight-hundred</b> [1]	71:21
99:16	99:19	104:13	<b>Mutual</b> [1]	10:7	<b>notate</b> [1]	51:22	<b>numbered</b> [1]	108:1				
107:17	107:19	109:23			<b>notation</b> [2]	77:8	<b>numbers</b> [7]	23:14				
109:23	113:7	117:21			77:13		23:17	43:21				
118:8					<b>notations</b> [1]	50:17	54:10	54:10	71:20	72:20		
<b>messages</b> [3]	68:18				<b>note</b> [15]	30:6	86:9	89:6	89:11			
119:10	119:12				40:18	48:9	96:4					
<b>method</b> [1]	46:3				55:8	58:5	<b>Nunley</b> [5]	84:18				
<b>MG</b> [1]	102:7				66:13	67:12	86:9	89:6	89:11			
<b>MGR</b> [1]	51:8				73:23							
<b>MGU</b> [2]	102:8				98:4	99:3	<b>Nunley's</b> [1]	90:21				
102:9					99:18							
<b>Mia</b> [1]	47:19				111:15							
<b>Michelle</b> [1]	13:11				<b>notes</b> [34]	2:8						
<b>might</b> [12]	26:17				2:15	2:19						
26:17	32:17	33:5			5:4	5:16						
33:8	46:15	79:20			6:11	8:5						
91:17	105:16	121:14			16:8	47:9						
121:19	121:22				48:1	49:9						
<b>Milbrath</b> [11]	15:23				50:1	50:1						
19:6	20:3	23:1			62:6	62:13						
23:23	49:18	53:19			66:18							
54:6	91:23	95:21			70:10	70:17						
103:15					78:6							
<b>Milbrath's</b> [1]	102:14				81:22	82:2						
<b>mini</b> [5]	82:13	82:18			83:17	99:3						
83:3	83:7	84:19			103:1							
<b>minimal</b> [1]	121:17				107:23	107:23						
<b>minute</b> [1]	45:5				114:7							
<b>minutes</b> [3]	60:3				117:5	117:8						
60:9	119:15				<b>nothing</b> [4]	73:23						
<b>Miranda</b> [6]	82:14				98:9	99:20						
82:18	82:20	83:3			124:15							
83:7	84:20				<b>notice</b> [12]	21:12						
<b>Miss</b> [1]	108:13				21:16	25:15						
<b>missing</b> [1]	108:18				26:11							
<b>misspeak</b> [1]	10:15				50:13	54:19						
<b>misunderstood</b> [1]	76:18				55:20	102:12						
<b>modified</b> [1]	49:10				103:18	104:8						
<b>module</b> [1]	27:4				<b>noticed</b> [2]	78:15						
<b>modum</b> [1]	65:15				89:16							
<b>Moltz</b> [4]	109:3				<b>notification</b> [1]	72:4						
110:14	116:4	116:13			<b>notify</b> [2]	87:23						
<b>Moltz's</b> [1]	116:18				88:1							
<b>monitor</b> [3]	15:6				<b>November</b> [2]	96:1						
119:20	120:21				96:14							
<b>month</b> [4]	12:20				<b>now</b> [15]	18:21						
106:3	120:5	120:6			29:13							
<b>months</b> [7]	9:9				32:10	50:1						
94:2	94:22	94:23			59:17							
95:23	96:1	103:13			65:12	67:7						
<b>Moore</b> [6]	44:22				69:23							
					<b>number</b> [79]	7:16						
					13:4	14:6						
					20:8	20:14						
					22:3	23:12						
					25:5	30:15						
					31:6							
					31:15	41:4						
					41:6							
					42:7	41:17						
					43:17	47:21						
					48:1	48:4						
					50:10	53:3						
					53:8	53:9						
					54:11							
					54:19	54:21						
					54:23							

## originally - purchase

## CondenseIt!™

## Starkey, et al vs. Firstsource

74:14		party [13]	17:23	52:12	52:15	53:3	26:23	44:16	56:21	print [1]	115:14
originally [3]	74:19	18:3	18:18	31:20	53:6	53:8	58:10	63:18	70:1	printed [3]	86:20
75:9	97:13	42:2	57:15	57:18	54:9	54:19	54:23	77:9	87:8	86:22	98:13
originate [1]	29:5	58:6	67:3	69:1	56:20	57:21	57:22	89:22	91:21	probing [1]	41:11
originated [2]	16:6	69:2	111:8	119:23	59:2	59:18	61:12	95:15		procedure [5]	41:9
17:3		pass [2]	38:6	113:9	63:20	66:19	68:2	policies [9]	35:6	67:23	68:4
outbound [1]	29:13	passes [2]	111:18	70:16	72:7	72:8	36:4	38:18	71:6	93:6	
outgoing [3]	72:19	113:4		72:8	72:10	76:6	83:9	92:22	110:21	procedures [12]	36:4
73:1	115:17	past [1]	112:22	76:12	76:15	76:16	121:13	122:1		38:19	40:23
outlined [1]	42:12	pay [13]	32:17	77:22	78:11	78:22	policy [10]	39:6		42:11	50:3
overlying [1]	47:12	84:22	85:1	79:10	79:11	79:18	39:7	41:9	119:6	119:9	119:19
overrode [1]	90:6	85:7	85:8	85:14	81:20	107:1	42:12		120:8	121:2	121:7
oversee [1]	8:15	88:15	88:15	107:7	109:22	110:1	44:6	69:11		proceedings [1]	97:2
oversees [2]	37:2	90:14	113:20	110:16	114:19	114:20	82:16	111:2		process [16]	22:10
37:16		payment [10]	82:6	115:4	115:5	115:9	populate [1]	88:23		27:16	27:17
overwritten [1]	90:4	82:7	84:20	87:2	116:3	116:14	populating [1]	89:10		30:8	37:2
owe [2]	110:12	88:2	88:6	88:21	116:18	116:20	population [2]	90:23		40:11	59:4
owed [2]	109:13	93:15	110:8	110:9	120:20	120:22	91:18			59:5	68:6
		payment-in-full [1]	92:13	phones [4]	38:12		portfolio [1]	10:10		80:10	87:20
owing [2]	48:15	payments [1]	85:11	44:7	44:8	115:23	portion [1]	18:1		101:19	102:11
48:19		PD [1]	85:16	phonetic [1]	102:19		position [8]	9:10		121:15	processes [1]
own [4]	27:23	pending [1]	7:1	Phyllis [2]	55:14		9:21	10:3		59:6	Production [8]
121:21	121:22	people [7]	11:19	56:3			13:12			2:12	2:22
owned [1]	11:20	14:9	72:2	physically [1]	56:17		16:3	19:11		5:8	5:20
ownership [3]	27:17	113:1	119:11	PI [1]	95:14		43:3			6:6	
27:21	115:12	per [8]	33:6	pick [1]	102:19		101:15			program [10]	31:17
owns [1]	68:5	69:14	113:2	picked [3]	63:20		positive [4]	42:23		31:18	31:19
		115:14		64:4	78:22		57:11	62:10		33:5	
-P-		120:5	120:5	picks [2]	30:18		68:9			34:23	35:3
P.C [1]	4:6	percent [3]	38:1	PIF [1]	95:15		possess [1]	19:13		60:1	51:5
p.m [1]	58:19	performance [1]	38:3	place [23]	48:14		possesses [1]	46:16		112:16	112:19
p.m. [1]	58:22	37:10	38:7	67:21	67:23		possibility [1]	94:11		programmed [1]	
page [10]	4:3	performed [1]	26:12	68:21			possible [14]	25:22		96:10	
44:18	44:20	perhaps [3]	33:2	70:22	71:1		33:16	33:20		programmer [1]	
45:12	65:13	54:22	89:16	71:7	79:2		34:22			19:12	
88:10	108:16	period [1]	22:12	83:13			52:15	69:5		programming [4]	
pages [10]	2:8	permitted [2]	43:8	87:21	88:2		69:6			50:8	61:4
2:15	2:19	44:10		88:21			73:8	73:10		104:10	
5:4	5:16	person [38]	23:17	105:14	108:13		79:14			112:2	
6:11	66:17	23:19	28:22	110:15			possibly [6]	25:20		promise [7]	85:5
paid [16]	86:11	31:9	30:10	112:16	118:17		35:1	55:16		85:7	85:8
87:22	88:4	31:12	31:13	119:1	119:1		79:11			88:15	88:14
90:13	90:13	37:16	39:16	119:7	119:9		106:11	111:4		88:15	88:21
91:19	93:2	41:7	41:12	119:15			post [4]	16:16		promised [1]	84:18
94:4	95:17	41:15	53:3	120:15			86:13			promoted [1]	95:3
96:12	113:20	53:19	53:14	placed [4]	25:6		postdated [4]	85:16		prompt [1]	104:3
paid-in-full [7]	87:23	56:6	60:7	79:6	79:8		85:19	87:4		propensity [1]	32:16
90:10	90:12	62:18	65:8	100:10			88:20			proper [2]	46:20
93:12	94:1	70:15	70:20	placement [4]	19:22		87:10	88:7		91:20	
96:7		79:1	79:3	25:16	48:8		potential [1]	53:2		provide [3]	39:7
paragraph [1]	17:22	98:18	99:4	48:22			Plaintiff's [40]	49:18		76:15	115:7
Park [1]	6:17	99:20	100:4	5:7	5:15		power [1]	58:8		provided [24]	19:14
part [2]	36:12	103:23	103:23	5:10	5:12		practical [1]	12:9		19:21	20:4
parted [1]	11:20	118:7		5:15	5:17		Practices [3]	35:19		20:10	20:13
partially [2]	76:4	personal [1]	44:7	5:21	5:23		36:3	37:14		22:1	22:23
121:3		personally [2]	28:19	6:4	6:5		pre [1]	66:17		35:21	36:2
particular [11]	10:6	personnel [1]	84:9	6:8	6:10		pre-programmed [2]	36:2		40:13	41:4
16:5	58:17	pertain [1]	32:22	45:2	47:7		40:13			43:9	45:7
72:18	89:14	pertinent [2]	94:8	97:4	105:8		43:9			46:15	
108:1	112:21	117:7		105:20	105:20		54:4	65:7		54:4	65:7
116:19		phone [76]	22:3	108:15	109:1		67:12			105:12	111:2
particulars [1]	11:1	25:4	28:16	108:15	122:12		provides [3]	36:13		provision [1]	18:7
parties [6]	4:11	28:19	29:1	109:1	119:22		42:21	55:3		PTP [2]	85:3
4:13	16:22	30:18	38:4	119:22			51:2			Public [3]	123:20
46:5	18:5	39:18	41:4	42:10			52:1			124:5	124:22
46:5	120:1	43:16	44:1	48:1			53:1			pull [1]	30:15
		48:4	48:7	52:10			54:1			pulled [4]	77:2
							55:1			107:13	114:13
							56:1			purchase [3]	11:15
							57:1			15:3	16:11

purchased [2]	15:1 16:11	received [44]	4:20 4:22 5:2 5:5 5:8 5:11 5:14 5:17 5:20 5:23 6:3 6:6 6:9 6:12 49:1 52:21 53:23 54:17 54:20 54:22 55:7 55:9 57:20 62:20 63:22 65:3 72:16 73:2 73:9 75:2 81:17 87:10 87:23 102:2 102:4 102:18 103:14 103:19 103:22 104:8 105:8 106:1 115:18 116:9	remained [1]	103:13 76:16 95:18	respect [2]	73:13 74:13 respective [1]	4:13 56:11	route [1]	29:14
purpose [1]	83:1			remember [3]	12:18 12:19 95:2 117:6	response [20]	2:7 2:10 2:12 2:14 2:17 2:20 2:22 3:1 5:1 5:7 5:10 5:13 5:19 6:2 6:5 6:8 45:8 45:20 45:23 79:13		routed [5]	71:17 71:23 72:2 115:13
pursuant [1]	21:12			remembered [1]					routes [1]	29:17
pursue [1]	76:10			remotely [1]	120:21				ruling [1]	68:14
put [22]	6:22 31:9 31:14 58:13 62:18 76:1 76:13 77:1 77:8 88:14 88:19 89:14 89:23 91:17 92:7 92:13 92:14 92:17 100:14 121:7 121:15			remove [1]	41:17				run [5]	98:6 100:13 100:16 113:8 118:12
puts [1]	59:2			removed [2]	88:22 89:8				running [1]	98:7
putting [3]	51:21 81:19 111:21	receives [2]	19:19 102:12	repeat [2]	9:22 39:21					-S-
		receiving [2]	73:22 95:16	report [17]	13:9 25:19 26:3 26:10 52:21 53:18 53:21 53:22 53:23 54:1 54:8 54:14 93:11 93:19 95:19 115:2 115:3	responsibilities [4]	8:13 8:15 27:21 37:1		s [5]	6:16 6:16 69:7 118:2 123:3
		recess [2]	97:1 119:17	rephrase [2]	7:20 71:11	responsible [4]	13:3 24:11 94:14 94:17		S-T-U-A-R-T [1]	
queried [2]	72:21 116:2	record [13]	6:22 6:23 7:5 44:17 74:8 74:10 74:11 83:10 105:11 106:13 108:20 108:21 109:4	reported [1]	92:2	result [12]	57:12 59:14 59:15 60:4 60:13 61:22 62:8 62:10 62:14 63:7 99:9 113:5		sale [1]	16:16
query [8]	32:19 32:23 51:20 51:21 56:12 114:20 115:4 115:6	recorded [3]	73:3 73:6 120:10	reports [8]	25:7 26:8 54:3 95:16 95:20 98:7 114:21 114:22	results [1]	115:8	sales [1]	20:23	
questions [9]	4:17 7:4 7:17 7:18 7:19 21:11 45:9 47:3 122:21	recordings [1]	120:13	represent [1]	7:15	retested [1]	38:5	says [55]	22:8 31:15 41:7 47:20 48:15 48:16 48:23 50:11 50:17 51:8 51:14 52:2 52:8 52:21 52:23 55:2 55:17	
queue [15]	22:14 24:15 25:14 25:14 27:9 27:22 27:23 28:1 28:8 29:12 57:20 77:22 88:23 89:10 92:15	records [7]	88:3 106:7 106:9 116:23 119:23 120:12 122:14	representative [5]	21:4 21:8 21:22 31:3 79:19	return [1]	54:18			
quickly [1]	79:13	recovery [1]	32:16	representatives [1]	120:17	returned [1]	70:6			
		reduced [1]	124:10	representing [1]	106:14	reveal [1]	102:17			
		refer [1]	15:11	represents [2]	33:21 64:5	reveals [1]	102:18			
		Referee [1]	4:14	reprimanded [1]	84:5	reviewed [2]	51:11 84:15	review [15]	8:3 40:15 51:8 51:9 76:6 76:7 76:10 77:8 78:11 81:18 90:1 95:19 102:22 105:15 119:15 112:9 117:22	
		reference [4]	30:15 55:14 64:3 111:12	requested [6]	40:1 54:14 84:20 86:15 110:8 111:17	reviewing [2]	25:11	review [15]	8:3 40:15 51:8 51:9 76:6 76:7 76:10 77:8 78:11 81:18 90:1 95:19 102:22 105:15 119:15 112:9 117:22	
		references [1]	57:1	requested [6]	40:1 54:14 84:20 86:15 110:8 111:17	right [52]	7:14 11:11 12:11 15:1 16:14 17:7 17:15 18:21 21:18 23:3 24:1 28:1 28:14 38:9 39:6 40:7 42:2 44:15 45:14 48:15 49:4 49:7 50:1 54:23 55:23 58:2 58:4 58:14 61:21 63:12 65:23 66:10 69:11 70:22 78:18 81:12 89:5 93:21 96:13 96:19 99:3 99:19 101:20 102:16 103:7 104:16 104:18 113:10 114:8 117:2 119:23 119:23	score [2]	32:16 37:21	
R [3]	4:2 6:16 70:1	referring [5]	50:9 55:22 57:5 66:4 68:12	reflect [6]	50:3 52:10 90:2 98:12 105:11 114:7	screen [6]	38:2	scores [1]	38:2	
RAB [1]	102:20	reflects [3]	48:21	reflecting [8]	32:7 48:9 48:10 73:9 78:6 106:6 107:11 111:16	scrub [4]	52:23	scrubs [1]	22:8	
randomly [1]	27:6	refusal [1]	113:14	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	scrubbed [2]	53:5 53:16 68:7 102:2	scrubs [1]	68:6	
range [1]	95:11	refused [2]	82:8 110:10	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	search [3]	31:20	search [3]	31:20	
reach [2]	67:10 78:2	regard [1]	35:22	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	searches [1]	32:21	searching [2]	116:13 116:14	
read [4]	17:21 45:20 118:20 123:1	regarding [5]	35:6 53:18 69:12 70:11 117:4	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	second [5]	17:16 17:17 38:8 79:11 106:12	second-last [1]	45:12	
reading [1]	33:22	relations [3]	16:4 92:17 104:5	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	Security [5]	20:7 25:5 41:23 54:11 117:9	Security [5]	20:7	
really [18]	11:21 26:5 32:18 37:7 79:16 96:9 98:22 99:16	refusal [1]	113:14	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
reason [4]	51:21 66:22 89:9 96:4	regarding [5]	35:6 85:3 85:4	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
recalled [2]	91:17 92:21	regards [1]	35:22	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
recalling [1]	92:22	regarding [5]	35:6 53:18 69:12 70:11 117:4	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
receipt [1]	85:14	relationship [1]	46:4	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
receipts [1]	116:20	relative [2]	40:15	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	
receive [8]	18:18 30:12 30:19 38:16 39:18 72:3 76:14 93:19	relevant [1]	46:16	reflecting [8]	48:9 48:10 73:9 78:6 106:6 107:11 111:16	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	see [23]	17:21 25:4 48:9 50:5 59:8 59:12 60:12 62:4 64:7 64:22 77:3 80:12 85:17 88:11 89:3 99:12 100:7 104:12 104:18 106:3	

seeing - Theresa

CondenseIt!™

Starkey, et al vs. Firstsource

112:8	116:20	120:19	93:16	97:4	105:20	29:16	29:20	30:5	states [3]	97:9	T [1]	6:16	
seeing [1]		80:11	108:15	108:23		30:11	30:22	31:2	109:12	111:5	tagged [2]	51:22	
seem [1]	66:12		shows [3]	74:13		31:17	32:6	32:11	status [11]	90:7	80:14		
segment [1]	32:15		115:17	116:2		33:1	33:13	33:17	90:8	92:13	takes [1]	70:22	
selected [1]	86:20		sic [1]	113:21		34:3	34:11	34:14	101:23	102:5	taking [1]	119:1	
send [5]	25:15	54:18	simply [11]	55:7		34:18	34:20	51:14	104:15	104:17	target [3]	32:17	
58:8	93:18	107:19	65:6	66:6	80:13	51:18	52:1	52:2	104:23		32:19	51:20	
sending [1]	26:11		81:19	86:5	100:2	56:15	56:20	57:1	status-code [1]	104:2	team [1]	10:9	
sent [15]	51:14	51:18	100:3	100:13	103:21	58:9	58:17	59:1	steps [1]	24:1	tel [1]	65:20	
53:1	55:18	56:1	117:5			59:4	60:2	60:8	sticking [1]	121:17	telecom [6]	10:17	
56:3	56:20	60:20	sit [2]	65:15	66:14	60:17	60:20	61:1	still [12]	12:3	10:19	10:22	
80:12	85:18	85:23	sitting [1]	45:14		61:6	61:8	61:18	12:21	56:19	43:4	101:16	115:6
86:11	86:17	87:15	situation [1]	41:10		62:11	62:13	63:6	75:4	86:8	telephone [27]	20:4	
104:13			six [2]	120:5	120:6	65:5	67:9	73:5	93:7	93:15	20:14	20:19	
separate [4]	12:4		73:7	78:21	79:20	73:7	78:21	79:20	97:18	95:18	30:11		
34:14	34:16	59:18	sixteen [1]	87:3		80:8	80:8	80:12	stipulated [1]	4:12	39:12	42:18	
September [1]	116:5		sixty [1]	117:17		80:20	81:3	81:6	stipulations [1]	4:10	42:22		
served [1]	21:12		sixty-eight [3]	83:12		81:9	99:1	99:9	stone [1]	26:9	52:2	54:21	
service [2]	42:18		84:23	85:1		100:6	100:10	100:12	stopped [2]	12:15	56:7	66:18	
42:22			sixty-five [2]	66:16		100:23	101:1	101:2	12:16		67:20	70:12	
services [3]	2:5		69:1			101:13	101:19	104:10	strategy [5]	32:18	72:20	80:17	
4:19	20:20		sixty-four [1]	81:21		107:20	112:19	113:3	46:21	50:11	81:23	81:23	
set [15]	2:7	2:14	sixty-seven [3]	69:7		Soundbite's [1]	56:18		56:22		105:23	106:8	
2:21	3:1	5:1	81:22	99:11		speak [1]	29:1				107:4		
5:13	6:2	6:8	sixty-three [1]	81:13		speaking [4]	42:2				108:12	118:4	
72:1	100:1	100:7	skill [1]	72:1		78:10	78:13	83:15	strictly [2]	11:9	telephones [3]	43:9	
100:12	113:3	113:4	skip [2]	43:15	66:16	specific [8]	7:6		78:13		68:19	119:11	
123:3			skip-tracing [1]	53:11		12:18	44:16	93:19	Stuart [2]	43:2	telephony [1]	72:1	
settled [5]	89:18		software [7]	15:6		104:3	115:5	121:9	Stuart's [1]	101:15	tells [2]	99:3	
90:2	90:3	90:11	15:9	15:15	15:20	122:6			subsequent [2]	38:7	temp [1]	109:21	
90:14			18:22	19:1	19:15	specifically [4]	35:23		38:17		template [2]	80:14	
settled-in-full [1]	96:7		Solutions [24]	11:6		37:15	61:19	117:19	subsequently [3]		111:21		
seven [2]	94:13		11:13	11:16	11:23	specifcics [1]	115:15		38:6	80:9	temporary [2]	56:17	
106:16			12:3	12:12	12:17	specify [1]	83:15		75:4		100:14		
seven-thirteen [1]	60:2		12:22	15:2	15:3	spell [2]	19:9	35:11	such [7]	25:2	ten [2]	86:1	
seventeen [2]	45:19		15:13	15:17	16:7	spoke [5]	57:23	73:19	44:7	46:1	112:9		
45:21			16:9	16:23	17:3	58:3	70:8	82:4	53:3	73:18	ten-forty-eight [1]		
seventeen-eighteen [2]	57:14	58:18	17:4	74:20	75:3	113:15			53:13		58:21		
seventy [1]	97:12		75:10	97:19	98:1	stamp [6]	56:15		73:19	119:11	term [1]	117:13	
seventy-eight [1]	65:12		98:5	107:3		56:19	63:8	63:8	suffering [1]	7:22	terminate [1]	38:9	
seventy-nine [1]	65:13		someone [1]	110:5		64:7	74:22		Suida [1]	102:19	terminated [2]	84:2	
several [2]	33:18		sometime [1]	20:21		84:16	91:15		Sprint [1]	42:23	104:11		
33:23			sometimes [5]	25:7		84:16	91:15		SS [1]	124:2	terms [2]	12:8	
share [1]	42:4		28:9	62:17	121:23	stamp [3]	80:15		stand [1]	111:22	37:10		
shares [1]	41:22		122:3			84:16	91:15		standard [5]	16:21	test [3]	37:19	
SHB [6]	50:18	50:21	somewhere [3]	12:8		93:17			25:15	93:14	38:11	37:21	
51:5	51:11	76:5	54:1	95:11		standards [3]	8:17		9:15		supervised [2]	9:15	
97:16			soon [1]	40:14		121:21	121:22		9:16		supervisor [8]	9:1	
sheets [1]	76:23		sorry [4]	31:2	69:21	stamp [1]	72:22		9:11	9:12	10:5	6:20	
shift [1]	40:10		88:12	100:15		stamps [1]	55:7		10:8	13:10	13:11	18:10	
short [2]	97:1	119:17	sort [13]	8:17	28:14	standpoint [1]	60:18		91:6		121:2	76:12	
Shorthand [1]	124:9		30:20	35:5	35:8	stands [1]	85:16		supported [1]	92:16	testified [8]	12:20	
show [11]	16:17		35:21	60:13	65:17	Starkey [3]	74:7		Susan [5]	44:22	18:10	75:13	
30:6	45:1	47:6	65:18	72:4	77:12	74:9	96:20		49:21	73:12	76:12	105:22	
56:12	71:8	98:14	92:15	93:6		74:9	96:20		73:21		106:4	111:1	
103:10	106:9	116:9	sorted [1]		93:23	start [5]	21:5	42:11			121:2		
118:23			sorts [1]	120:7		44:17	44:20	44:22	sworn [3]	6:19	testify [3]	8:1	
showed [2]	81:20		Sound [2]	30:18		77:7			Symposium [1]	120:19	46:2	124:15	
84:16			30:22			started [2]	11:23		system [25]	15:11	testifying [1]	21:23	
showing [6]	91:13		Soundbite [70]	29:11		77:7			15:13	18:22	testimonial [1]	46:14	
						starting [1]	38:11		27:8	30:16	testimony [9]	7:6	
						starts [1]	50:2		35:7	40:11	7:10	26:16	
						State [2]	124:1	124:6	49:6	61:1	123:5	124:7	
									72:17		124:12	124:19	
											tests [1]	38:7	
											Thank [2]	18:19	
											122:21		
											themselves [4]	14:15	
											79:18	104:1	
											thereafter [2]	107:13	
											61:6		
											therefore [2]	98:6	
											98:9		
											Theresa [13]	15:23	
											16:1	19:6	
											20:3		

23:1	23:23	49:18	tool [1]	53:8	25:22	26:7	62:12	verify [4]	42:1	40:8	44:4	46:20	
53:19	54:6	91:23	top [10]	47:20	49:11	92:19		77:13	100:5	117:9	49:14	50:11	57:9
95:21	102:14	103:15		67:11	75:21	77:3		version [3]	19:1	60:23	64:13	64:16	
third-party [2]	29:11			77:4	88:13	94:3	-U-	19:3	19:4	66:6	67:15	68:13	
100:13				97:22	98:2		Ultimate [1]	15:10		68:15	73:16	75:15	
thirteen [6]	50:18		touch [1]		69:16		Um-hum [3]	33:4		77:16	78:14	98:11	
50:21	50:23	51:2	tracing [1]		43:15		80:19	121:21		98:14	101:12	105:15	
86:21	86:22		train [1]	35:2			unaltered [1]	122:18		106:18	116:16	122:22	
thirty [5]	64:11		trained [3]		35:17		unattended [1]	99:23		witnesses [3]	45:17		
64:15	64:23	93:2	38:19	83:2			under [12]	12:12		46:6	46:15		
109:19			trainer [1]		35:15		18:2	26:8	69:18	WJE [3]	75:20	90:22	
thirty-eight [1]	80:2		training [6]		35:3		50:17	52:8	107:16	91:15			
thirty-four [2]	90:19	113:11	35:4	35:5	35:7		55:3	60:19	113:8	WLN [3]	84:17		
thirty-seven [1]	80:2		35:21	36:12			97:19	124:11		86:7	90:22		
thirty-six [1]	74:15		transcript [5]		4:15		underneath [1]	80:16		wondering [1]	54:22		
thirty-three [3]	89:4	95:14	7:7	123:4	124:18		understand [3]	7:19		word [1]	114:2		
Thomas [4]	109:3	116:4	transferred [1]		17:23		35:18	69:22		words [5]	12:11		
116:13	116:18		transferring [1]		78:23	79:2	undertaken [2]	50:4		33:16	53:23	61:4	
thought [4]	76:12	77:17	trial [4]	4:17	45:18		102:11		121:19	121:19			
112:23	114:12		tried [1]	54:18			unit [1]	75:20		worked [5]	9:4		
thousand [1]	26:8		true [5]	17:11	34:22		unusual [4]	95:22		10:1	10:2	82:11	
threatening [1]	113:16		122:18	123:4	124:18		96:2	96:17		84:17			
three [18]	2:19	3:2	truth [3]	124:15	124:15		up [41]	22:10		works [2]	91:14		
3:2	5:22	6:11	124:16				24:2		101:5				
9:5	10:3	11:22	try [2]	43:20	68:1		28:19	30:6		writing [5]	42:15		
11:23	14:8	31:6	trying [4]		53:5		30:18	44:18		110:23	121:7	121:15	
45:23	57:23	64:22	74:2	85:6	95:2		58:6	61:16		124:11			
69:15	77:9	94:22	turned [1]		95:2		64:4	67:4		written [4]	18:2		
96:1	97:12		twelve [1]		95:2		69:15	74:4		26:9	39:2	39:3	
through [31]	29:9	31:10	twenty [5]	17:11	34:22		77:16	78:22		wrong [7]	31:6		
32:21	32:23	33:1	122:18	123:4	124:18		79:3	79:10		31:15	41:7	43:18	
35:3	35:5	35:6	124:16				81:20	83:14		54:20	60:7	78:1	
53:16	56:14	59:3	try [2]	43:20	68:1		83:14	83:14		wrote [1]	58:5		
59:4	62:19	64:23	trying [4]		74:2		84:16	88:17					
66:23	69:20	67:1	turn [1]		85:6		91:11			-Y-			
72:17	79:8	80:3	turned [1]		95:2		98:14	100:1		year [5]	9:20	9:22	
84:11		85:10	twelve [1]		95:2		100:12	103:10		11:17	95:6	95:9	
92:20		92:20	twenty [5]	17:11	34:22		107:13	110:1		years [7]	8:21		
93:20	108:1	109:19	20:1	64:19	64:23		111:9		8:21	9:4	10:1		
113:11	118:20	120:3	twenty [5]	64:19	64:23		113:3	113:4	10:3	11:22	12:1		
throughout [1]	76:17		twenty-eight [3]	64:19	64:23		115:5		124:15	yelled [1]	113:16		
ticket [1]	115:6		twenty-five [6]	48:16	50:6		update [1]	88:3	125:13	Yep [2]	60:23	112:14	
tickler [8]	88:9	88:10	twenty-five [6]	48:16	50:6		updates [1]	30:8	126:13	yesterday [2]	76:22		
88:11	88:18	88:22	twenty-five [6]	48:16	50:6		upgraded [1]	19:4	105:14	105:21			
89:1	89:9	89:13	twenty-one [5]	57:7	59:13		upload [3]	50:6	106:14	yesterday's [1]	105:21		
times [4]	7:10	33:23	twenty-one [5]	57:7	59:13		uploaded [2]	23:4	107:15	yet [3]	11:20	91:17	
69:12	115:17		twenty-one [5]	57:7	59:19		77:18		93:14				
timing [1]	26:1		twenty-one [5]	59:19	69:21		upside [1]	63:17		whole [2]	11:21		
title [6]	8:11	12:16	twenty-one [5]	69:21	78:18		used [5]	19:1		124:15			
35:14	35:14	101:18	twenty-seven [2]	69:21			90:2	116:14		William [5]	84:18		
today [3]	14:11	21:7	twenty-seven [2]	69:21			124:12		91:1	youngest [1]	93:23		
21:11			twenty-seven [2]	69:21			uses [1]	18:21		yourself [1]	25:2		
TODD [1]	4:6		two [22]	8:21	8:21		using [3]	12:15					
toll-free [1]	71:20		10:1	26:16	29:8		12:16	12:21		-Z-			
tone [5]	65:13	65:15	30:23	46:5	46:6		various [1]	121:13		zero [6]	87:8	87:9	
65:17	65:18	66:14	50:12	52:12	52:15		vendor [4]	29:11		89:4	91:16	92:11	
too [1]	118:2		52:16	57:1	57:2		verbal [3]	39:1		93:18			
took [11]	48:14	67:21	57:22	65:4	65:13		verbally [4]	7:18		zeroed [1]	89:8		
71:1	71:5	71:7	66:17	79:7	79:11		39:12	39:16					
76:4	83:13	105:13	94:2	94:22			verbatim [1]	121:11					
108:13	118:17	120:15	two-week [1]		35:3		verbiage [2]	31:7					
			type [2]	28:17	36:20		62:10						
			typically [5]		25:4		verification [2]	41:18					